

BUCKNELL UNIVERSITY SEX DISCRIMINATION, SEXUAL MISCONDUCT, RELATIONSHIP VIOLENCE & STALKING POLICY & PROCEDURES FOR RESOLVING COMPLAINTS AGAINST STUDENTS

Bucknell University is committed to maintaining an academic environment in which members of its community can pursue their academic and professional activities. This environment cannot thrive unless each member of the University community is valued as an individual and is treated respectfully. Sex Discrimination (which includes Sexual Misconduct), Relationship Violence and Stalking are antithetical to the standards and values of the University, violate University policy and, in some instances, state and federal law, and will not be tolerated.

This Policy sets forth the options and resources available to an individual making a report of Sex Discrimination (including Sexual Misconduct), Relationship Violence or Stalking. Reports alleging such conduct committed by students will be resolved according to the procedures outlined in this Policy. Reports alleging such conduct committed by faculty or staff members will be resolved consistent with the procedures outlined in the [faculty](#) and [staff](#) handbooks and policies.

I. POLICY DEFINITIONS & VIOLATIONS

This Policy prohibits “Sex Discrimination” (including “Sexual Misconduct”), “Relationship Violence” and “Stalking,” broad categories encompassing the conduct defined below. Anyone can be found responsible for having committed Sex Discrimination (including Sexual Misconduct), Relationship Violence or Stalking (regardless of sex or gender), which can occur between people of the same or different sexes or genders.

SEX DISCRIMINATION

Title IX of the Educational Amendments of 1972, 20 U.S.C. §§1681 et seq., prohibits discrimination on the basis of sex in educational programs and activities operated by recipients of federal financial assistance, including in employment by such institutions. Title VII of the Civil Rights Act of 1964 likewise prohibits discrimination in employment. The University complies with Title IX and Title VII and does not discriminate on the basis of sex in educational programs and activities, admissions or employment. It complies with all applicable federal and state laws regarding nondiscrimination and equal opportunity. www.bucknell.edu/noticeofnondiscrimination

Sex Discrimination occurs when someone is treated adversely because of, or on the basis of, their sex or gender. It is important to understand that Sex Discrimination includes sexual harassment, sexual assault and other forms of misconduct as discussed below. Sex Discrimination also includes discrimination or harassment of a person based on the person’s nonconformity with gender stereotypes. Sex Discrimination is a violation of this Policy.

Sexual Misconduct Definitions Covered by this Policy

Sexual Misconduct

Sexual Misconduct is a form of Sex Discrimination and encompasses the conduct described below:

Sexual Harassment: Unwelcome sexual advances, requests for sexual favors or other unwanted conduct of a sexual nature, whether verbal, nonverbal, graphic, physical or otherwise, when the conditions outlined in (1) or (2) or (3), below are present.

1. Gender-based Harassment is harassment based on gender, sex, sexual orientation, gender identity or gender expression, which may include acts of aggression, intimidation or hostility whether verbal, nonverbal, graphic, physical or otherwise, even if the acts do not involve conduct of a sexual nature.
2. Submission to or rejections of such conduct is made, whether explicitly or implicitly, a term or condition of a person’s employment, academic standing, or participation in any University programs or activities or is used as the basis for University decisions affecting the individual (quid pro quo); or

3. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent or pervasive that it unreasonably interferes with, limits or deprives an individual's participation in or benefitting from the University's education or employment programs or activities.

In evaluating whether a Hostile Environment has been created, the University will consider the alleged conduct from both a subjective and objective perspective. Specifically, it will evaluate the alleged conduct from the perspective of a reasonable person in the Complainant's position, considering all the circumstances. If the University determines that a Hostile Environment exists, it will take steps to eliminate the Hostile Environment, prevent its recurrence and, as appropriate, remedy its effects.

Sexual Assault:

(1) Sexual Intercourse or (2) Sexual Contact or (3) Rape or (4) Sodomy or (5) Sexual Assault With an Object (5) without consent.

1. **Sexual Intercourse:** Any penetration, however so slight, with any object or body part, as follows: (a) penetration of the vulva by a penis, object, tongue or finger; (b) anal penetration by a penis, object, tongue or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.
2. **Sexual Contact:** Intentional sexual touching, however so slight, with any object or body part, whether directly or through clothing, as follows: (a) intentional touching of the lips, breasts, buttocks, groin, genitals, inner thigh or anus, or intentionally touching another with any of these body parts; (b) making another touch anyone else themselves with or on any of those body parts; and (c) intentional touching of another's body part for the purpose of sexual gratification, arousal, humiliation or degradation.
3. **Sexual Assault With an Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Non-consensual Fondling: The touching or attempted touching of another's breasts, genitals or buttocks (over or under clothes), for the purpose of sexual gratification, without Consent. Non-consensual Fondling also includes forcing or attempting to force another to touch the breasts, genitals or buttocks of the Respondent, for the purpose of sexual gratification, without Consent.

Sexual Exploitation: The abuse or exploitation of another person's sexuality. Examples of Sexual Exploitation include, but are not limited to, non-consensual observation of individuals who are undressed or engaging in sexual acts, non-consensual audio- or videotaping of sexual activity, prostituting another person, allowing others to observe a personal consensual sexual act without the knowledge or consent of all involved parties, and knowingly exposing an individual to a sexually transmitted infection without that individual's knowledge.

Consent: Knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate Consent.

To give Consent, a person must be of legal age. Assent does not constitute Consent if obtained through Coercion or from an individual whom the person initiating the sexual contact knows or reasonably should know is incapacitated. Coercion is the use of express or implied threats, intimidation or physical force which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. Coercion also includes administering a drug, intoxicant or similar substance with the intent to impair that person's ability to Consent prior to engaging in sexual activity.

An individual is considered to be Incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Someone who is drunk or intoxicated is not necessarily Incapacitated. Individuals who are asleep, unresponsive or unconscious are Incapacitated. Other indicators that an individual may be Incapacitated include, but are not limited to, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.

An individual's use of alcohol or drugs does not diminish that individual's responsibility to obtain Consent. Consent to engage in sexual activity may be withdrawn by any person at any time. Once withdrawal of Consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving Consent.

A current or previous consensual dating or sexual relationship between the Parties does not itself imply Consent or preclude a finding of responsibility for misconduct.

RELATIONSHIP VIOLENCE

Relationship Violence includes the following violations:

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 domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

Stalking

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

OTHER PROHIBITED CONDUCT

Complicity: Assisting, facilitating or encouraging the commission of a violation of this Policy.

Retaliation: Materially adverse acts or attempted acts for the purpose of interfering with any report, investigation or proceeding under this Policy, or as retribution or revenge against anyone who has reported Sex Discrimination (including Sexual Misconduct), Relationship Violence or Stalking or who has participated (or is expected to participate) in any manner in an investigation or proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion or discrimination. Both federal and state law, as well as Bucknell University policy, prohibits Retaliation.

OTHER DEFINITIONS

Complainant: Any individual who has allegedly experienced a violation of this Policy.

Adviser: An individual who has agreed to serve as a provider of support and advice for a Complainant or Respondent. The Adviser may accompany a Complainant or Respondent to any proceeding or meeting that is held in connection with the investigation and resolution of a Complaint. The Adviser may not speak aloud during any meeting or investigation interview, including by addressing anyone other than the Complainant or Respondent whom the Adviser is advising. The Adviser may confer quietly or by means of written notes with that Complainant or Respondent. An Adviser whose presence is deemed at the sole discretion of the University employee conducting the proceeding or meeting to be improperly interfering with the proceeding or meeting will be required to leave and may be prohibited from participating in further meetings or proceedings under this Policy. *Please also see Appendix A: Adviser for cases meeting the definitions and jurisdictional elements to be adjudicated under the May 2020 Title IX Regulations, in which cases Advisers will engage in cross-examination during the live hearing.*

The Dean of Students' Office keeps a list of Advisers who have received training on this Policy. Parties may (but are not required to) select a trained Adviser from this list.

This Policy does not create a privileged relationship between a Complainant or Respondent and an Adviser.

If the Adviser for a Complainant is a member of the University community, the Adviser is obligated under this Policy to inform the Dean of Students' Office of information that contradicts the report or charges. Likewise, if the Adviser for the Respondent is a member of the University community, the Adviser is obligated to similarly disclose information that supports the allegations.

Appellant: A Party appealing a decision of the Hearing Panel.

Appellee: A Party opposing an appeal.

Attempt: Taking a substantial step toward committing a violation.

Reporting Party: An individual who invokes the University's processes to determine whether this Policy has been violated. This may or may not be the Complainant.

Complaint: A statement submitted by the Complainant to the Title IX Coordinator for the purpose of informing the University of conduct that may be in violation of this policy. The University reserves the right to investigate and take action with regard to information brought to its attention regardless of the wishes of the parties or whether any Complaint is filed.

Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator against a Respondent alleging conduct which would constitute a violation of Appendix A of this policy, and requesting that the University investigate the allegations(s). At the time of filing a formal complaint, a Complainant must be participating in, or attempting to participate in, an education program or activity of the University. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail or by electronic mail, by using the contact information listed on the Title IX website, or as described in this policy. Please see also Appendix A: Reporting a Title IX Complaint.

Hearing Panel: The three-member panel charged with adjudicating an alleged violation of this Policy. The Hearing Panel is typically drawn from the Hearing Panel Pool and comprised of three trained University employees. The Dean of Students' Office has sole discretion to make exceptions to this composition to ensure a timely hearing, including by appointing other available members of the University community to serve on that panel. A member of the Hearing Panel shall be appointed to serve as the Hearing Panel Chair.

Hearing Panel Pool: The group of University employees from which members of the Hearing Panel are selected.

All members of a Hearing Panel Pool will receive at least annual training on:

- Issues related to Sex Discrimination, including Sexual Misconduct, Relationship Violence and Stalking
- The purpose and implementation of this policy
- How to conduct an investigation and hearing process that protects the safety of Complainants, provides appropriate support to all students involved, and promotes accountability
- The definition of sexual harassment under § 34 C.F.R. § 106.30(a) and the scope of the University's education program or activity as defined by the same regulations
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Issues of relevance to questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant per the regulations
- The use any technology that will be used at the live hearing

Investigator: An individual, typically the Title IX Coordinator, who is appointed by the Dean of Students to gather evidence and facts relevant to the allegations that are the subject of the investigation. For those cases being adjudicated under Appendix A, the role of the Investigator is set forth in that Appendix.

Party or Parties: A term referring individually or collectively to the Complainant and/or Respondent.

Respondent: Any student or student organization alleged to have violated this Policy.

Responsible Employee: Any regular full or part-time University employee, unless the employee is authorized or required by law to keep information confidential by virtue of the employee's professional role (the Interpersonal Prevention and Advocacy Coordinator, Bucknell Student Health, the Counseling & Student Development Center and the Office of Religious & Spiritual Life, for example). If a Responsible Employee becomes aware of an instance of alleged Sexual Misconduct, Relationship Violence or Stalking involving a student, the employee must promptly report that information to the Title IX Coordinator.

Witness: Any individual who has seen, heard or otherwise knows or has information about facts related to an alleged violation or attempted violation of this Policy.

For those cases that proceed under Appendix A, procedures regarding witness participation is set forth in that Appendix.

Expert witnesses are not permitted unless the expert has specific, factual information related to an alleged violation or attempted violation of this Policy. Character evidence is not relevant evidence, and therefore individuals identified to provide information about a Party's character generally may not serve as witnesses. The Investigator's role is not that of a witness, and the Investigator may not be questioned by the Complainant or Respondent.

RELATIONSHIPS WITH INDIVIDUALS INVOLVING DISPROPORTIONATE AUTHORITY

A sexual or romantic relationship between students and faculty/staff and between employees in a supervisory/subordinate relationship (one individual being directly or indirectly supervised or evaluated by the other) is strongly discouraged. There will be a strong presumption that sexual activity between students and faculty/staff members and between employees in a supervisory/subordinate relationship is unwelcome and nonconsensual.

Furthermore, such interactions may constitute violations of other University policies and professional standards.

II. REPORTING

The University encourages anyone who has information pertaining to a potential violation of this Policy to report it to the Title IX Coordinator.

Title IX Coordinator:

570-577-1554

232 Marts Hall

Bucknell University Lewisburg, PA 17837

titleix@bucknell.edu www.bucknell.edu/titleix

If the incident involves alleged criminal activity or presents a safety concern, it may also be reported to the Department of Public Safety.

Department of Public Safety: (24 hours) 570-577-1111 (emergency)

570-577-3333 (non-emergency)

580 Snake Road, Bucknell University Lewisburg, PA 17837 www.bucknell.edu/publicsafety

Students have the option to make an anonymous report to the Department of Public Safety using the anonymous reporting form at www.bucknell.edu/publicsafety. The amount of detail provided will determine the University's ability to respond.

Incidents involving University faculty or staff members may be reported as specified above or to Human Resources.

Human Resources:

570-577-1631

1st Floor, Cooley Hall, Bucknell University Lewisburg, PA 17837

hr@bucknell.edu www.bucknell.edu/humanresources

The University does not limit the time frame for reporting under this Policy, although a delay in reporting may impact the University's ability to take certain actions. The University retains the authority to pursue disciplinary action against students who withdraw or are on a leave of absence from the University after an incident of Sex Discrimination (including Sexual Misconduct), Relationship Violence or Stalking is alleged to have occurred. The University may withhold a student's diploma where a report of Sex Discrimination (including Sexual Misconduct), Relationship Violence or Stalking is pending. It may also, with Board of Trustee approval, revoke any degree awarded for an individual who is found responsible for prohibited conduct occurring prior to conferral of the degree.

Complainants have other reporting options, which they can pursue regardless of whether or not they choose to invoke the disciplinary process on campus. These options are not mutually exclusive. Complainants can pursue criminal charges (through the University's Department of Public Safety or local authorities) and, in some instances, may wish to talk with a private attorney about civil litigation. University personnel will assist the Complainant in notifying authorities if the Complainant so requests. It is important to understand that the standard for criminal prosecution is different from that used in student conduct proceedings. As a result, decisions rendered in either forum are not determinative of what will happen in the other. Additionally, in most situations, where a report is made on campus, it will move forward without regard to the status of criminal or civil proceedings.

Responsible Employees: If a Responsible Employee becomes aware of an instance of alleged Sexual Misconduct, Relationship Violence or Stalking involving a student, the employee must promptly report that information to the Title IX Coordinator. The Title IX Coordinator makes an online reporting form available for this purpose at www.bucknell.edu/TitleIX.

Amnesty: a Complainant or Witness of an incident of sexual harassment or sexual violence who reports the incident in good faith will not be sanctioned by the institution for admitting in the report to a violation of the institution's student conduct policy on the personal use of drugs or alcohol.

III. RESPONDING TO REPORTS OF SEX DISCRIMINATION

Upon receiving a report of a potential violation of this policy, the Title IX Coordinator shall reach out to the Complainant and offer support measures, explain that support measures are available without filing a Formal Complaint, explain the options for resolution, and explain how to file a Formal Complaint. Please see also Appendix A.

IV. CONFIDENTIALITY

The University will seek to protect the privacy and confidentiality of the individuals involved in any report of alleged Sex Discrimination (including Sexual Misconduct), Relationship Violence or Stalking to the extent possible and allowed by law. The Title IX Coordinator will evaluate any request for confidentiality in the context of the University's responsibility to provide a safe and nondiscriminatory environment to all members of its community.

The University will complete any publicly available record-keeping, including Clery Act reporting and disclosure, without the inclusion of identifying information about the Complainant. It will also maintain as confidential any interim measures or remedies provided to the Complainant to the extent that maintaining confidentiality will not impair its ability to provide the interim measures or remedies.

Confidential resources and support services, such as the Interpersonal Prevention and Advocacy Coordinator, are listed in Section XI of this Policy.

V. SUPPORT MEASURES

Whether or not a Formal Complaint is filed, a complainant may request support measures to ensure equal access to the University's educational programs and activities. During the investigation and prior to a final determination, the Title IX Coordinator and/or the Dean of Students will provide appropriate supportive measures to all students involved. These measures may include, but are not limited to, the imposition of a mutual no-contact order; employment, transportation, residence, and academic modifications; and access to counseling services. The Title IX Coordinator and/or the Dean of Students or their designee may limit a student's access to certain University facilities or activities pending resolution of the matter. The Dean of Students may impose an Interim Suspension on the Respondent pending the resolution of an alleged violation when the Dean determines, in the Dean's sole discretion, that it is necessary in order to protect the safety and well-being of members of the Bucknell community, to protect the Respondent's own physical or emotional safety and well-being, or if the Respondent poses an ongoing threat of disruption of or interference with the normal operation of the University. Notice of any emergency removal or suspension must be in writing to the Respondent. The party must be given the opportunity to challenge the determination. The challenge must be in writing to the Dean of Students within two (2) days of receipt of the notice. Please see Appendix A Supportive Measures for cases under Title IX, regulations.

VI. INFORMAL OR ALTERNATIVE RESOLUTION

Alternative Resolution

When the Complainant requests 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 identity of the Complainant
- The date and location (if known) of the conduct that is alleged to have occurred
- A copy of this policy, which contains the information about both the Alternative Resolution process as well as the formal complaint process
- 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 process below, there is a determination of responsibility
- An explanation that each party may be accompanied by an Adviser or support person of their choice, who may be a parent, friend, faculty or staff members or an attorney

- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of three business days' notice
- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant
- An explanation of the consequences of participating in the Alternative Resolution process, including a summary of the records that will be maintained or could be shared if the parties elect an Alternative Resolution

The Alternative Resolution process is generally expected to be completed within twenty calendar 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.

Participation in an Alternative Resolution is voluntary, and both parties must agree, in writing. Even if the parties agree to an Alternative Resolution, it is within the discretion of the Title IX Coordinator to determine that a report must proceed through Formal Complaint process in certain cases (e.g., where a Respondent is alleged to have violated the Title IX Policy on multiple occasions or with multiple Complainants, or where the reported conduct, if true, presents a threat to the safety of the School community). 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 Formal Resolution.

Once the final terms of an Alternative Resolution have been agreed upon by both parties, in writing, the matter shall be considered closed, and will not then proceed to a Formal Complaint process. Any resolution reached through an alternative resolution process will be confirmed in writing and provided to the parties within five (5) business days of reaching a resolution.

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

Allegations of quid pro quo harassment of a student by an employee shall not be handled through the Alternative Resolution process, and instead only through the formal complaint process. Please see Appendix A ***Alternative Resolution for those cases under the jurisdiction of Appendix A definitions.***

VII. INVESTIGATING REPORTS OF SEX DISCRIMINATION (INCLUDING SEXUAL MISCONDUCT), RELATIONSHIP VIOLENCE & STALKING

Note: The following procedures shall apply to those cases that do not fall within the definition of Sexual Harassment as set forth in Appendix A)

The University will respond to all reports of potential violations of this policy. Resolution of all reports made under this Policy, if done so by formal investigation, remedies-based resolution, or via support measures, will be conducted in a prompt and equitable manner by an Investigator who has received appropriate training. Resolutions will be completed timely.

Other Code of Conduct Violations: The University has discretion whether or not to pursue other violations of the Student Code of Conduct that occurred in the context of the reported incident of Sex Discrimination (including Sexual Misconduct), Relationship Violence or Stalking, including those that may fall under the definitions set forth in Appendix A. Such violations may be resolved in a hearing held under this Policy, may be resolved under the Code of Conduct, or may not be pursued.

VIII. DISCIPLINARY PROCEEDINGS

(Note: The following procedures shall not apply to those cases that fall within Appendix A)

Complaint: To initiate an Investigation, the Complainant must submit a written or oral complaint to the Title IX Coordinator that contains:

- The name of the Respondent, if known,
- A description of the alleged Sex Discrimination (including Sexual Misconduct), Relationship Violence or Stalking, and
- The date, approximate time, and location of the alleged violation, if known.
- A request for an investigation.

The Title IX Coordinator will provide the Complainant with a copy of this Policy, review procedures, and inform the Complainant of available resources, support services, and options, including the option to be assisted by an Adviser of their choice. The Complainant will also be provided with a written notice of the intent to investigate.

The Title IX Coordinator will contact the Respondent in writing to notify the Respondent that a Complaint has been filed, provide written notice of the allegations, and advise that these allegations will be investigated. The Title IX Coordinator will meet with the Respondent to review the allegations in greater detail, provide a copy of this Policy, review procedures, and inform the Respondent of available resources, support services and options, including the option to be assisted by an Adviser of choice. This meeting is not intended to be part of the investigation process, but is simply intended as an opportunity for the Title IX Coordinator to explain the process to the Respondent, offer support measures, and answer procedural questions to the extent possible.

Upon initiating an investigation, the University will provide the parties with a copy of the complaint, a notice of investigation, and a copy of this Policy. A notice of investigation shall include: a meaningful summary of the allegations, the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged incident(s) (if known), the specific policies implicated, a description of the applicable procedures, a statement of the potential sanctions/responsive actions that could result, a statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination; A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period; a statement about the University's policy on retaliation; information about the privacy of the process; information on the right for each party to have an adviser of their choosing and suggestions for a way to identify an adviser; a statement informing the parties that this Policy prohibits knowingly false statements, including knowingly submitting false information during the resolution process; a link to the University's VAWA brochure; the name of the investigator along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the investigator may have; and an instruction to preserve any evidence that is directly related to the allegations.

During the investigation, each Party may provide to the investigator relevant evidence and the names of witnesses who may have relevant evidence. The University shall not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains the party's voluntary, written consent to do so for a grievance process under this policy.

An investigator will not question the Complainant, or otherwise seek evidence, regarding the Complainant's sexual predisposition or prior sexual conduct with anyone other than a Respondent for purposes of determining consent, or for purposes of explaining a prior and relevant injury.

The University will provide each party an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including all inculpatory or exculpatory evidence, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. This response may include a request for additional investigation, or a request that the investigator ask

specific questions of a party or witness. This is the parties' final opportunity to submit any additional information or witnesses. In the absence of good cause, investigators shall not consider information discoverable through the exercise of due diligence that is not provided to the investigator(s) at this juncture. The investigator shall consider any written response, information, or evidence provided by the parties.

If either party fails to participate in the investigation, the investigator may make factual findings without the response of that party, or the University may dismiss the case.

If, at any time during the investigation, new allegations are brought forward, the Title IX Coordinator will send both parties revised written notice.

Student Conduct Investigative Report: Upon conclusion of the investigative fact-finding, the investigator shall prepare a Student Conduct Investigative Report that summarizes the Complainant's allegations and Respondent's responses, summarizes the relevant evidence and the relevant witnesses supporting or opposing the allegation(s), and includes preliminary factual findings.

The Report shall be provided to both parties and their advisers, together with all relevant evidence (for example, statements, photographs, etc.), and both parties shall have 10 days in which to provide a written response to the report, if they wish to do so. This is not an opportunity to provide new evidence but is instead an opportunity to comment upon the allegations and/or the evidence gathered. The Report, together with any response(s) from the Parties as well as all relevant evidence gathered during the investigation, shall then be provided to the hearing panel for their review and consideration.

The Title IX Coordinator will review the evidence and will determine whether a hearing is required. A hearing will be held in all cases in which a finding of responsibility may result in a finding of suspension or expulsion.

If the Title IX Coordinator determines to hold a hearing, the Title IX Coordinator will inform the Parties in writing of the date, time and place of the hearing, the alleged violations that will be investigated in the hearing, and the names of those who have been selected to serve as the Hearing Panel.

Each Party shall have an opportunity to challenge Hearing Panel members for bias or conflict of interest. The challenge must be rooted in a specific bias or conflict of interest (e.g., the proposed Hearing Panel member is someone with whom a Party has had a previous conflict or relationship) rather than a general objection (race, religion, gender, etc.). A challenge must be made in writing to the Investigator within two (2) calendar days of notification of the composition of the Hearing Panel. The Dean of Students, in the Dean's sole discretion, shall determine whether a Hearing Panel member will be removed for possible bias or conflict of interest.

The following processes shall not apply to a hearing held under Appendix A: Please see Appendix A Hearing for cases under Title IX, regulations.

The Hearing Panel Chair will review the Student Conduct Investigative Report and will determine which witnesses, documentation, and other information will be called or presented at the hearing. Both parties also have the opportunity to request witnesses no later than (5) calendar days prior to the hearing. No later than five (5) calendar days prior to the hearing, the Title IX Coordinator will provide the Parties with the list of witnesses, and any other information that will be presented at the hearing.

The Parties may not introduce witnesses, documentation, or other information at the hearing that were not provided to the Investigator by this deadline.

The Title IX Coordinator has sole discretion to alter the time frames provided in this Policy for good cause and with written notice of the delay and reason for the delay to the Parties.

Prior to the hearing, the Investigator will offer to meet with each Party to review hearing procedures, the alleged violation(s), and the list of witnesses and other information that will be presented at the hearing.

Hearing Panel members and Advisers are required to keep the information learned in preparation for the hearing and at the hearing confidential. No copies of documents provided are to be made or shared with any third parties. All

copies provided must be returned to the Investigator, or deleted if provided in electronic form, at the conclusion of the hearing or, if applicable, the appeal. The Investigator will advise when materials are to be returned or deleted.

Statements Relevant to Sanctioning: On or before the day of the hearing, either party may submit a written statement relevant to sanctioning and/or an impact statement for consideration by the Hearing Panel. The statement must be provided to the Title IX Coordinator in a sealed envelope. The statement is not evidence on which any determination will be made, and will be read by the Hearing Panel only if the Respondent is found responsible. If the Hearing Panel does not find the Respondent responsible, the envelope will be destroyed, unopened by the Hearing Panel and Title IX Coordinator.

Hearing:

Participants: Hearings are closed proceedings. The individuals who may appear before a Hearing Panel are: the Complainant and their Adviser, the Respondent and their Adviser, and Witnesses. The Complainant and Respondent, and their Advisers, may be present throughout the hearing. Witnesses are permitted in the hearing room only when providing information to the Hearing Panel. The Investigator will attend at the request of the Hearing Panel Chair.

Attendance at Hearings: If a Party fails to attend a hearing, the hearing may be held in the Party's absence. The Hearing Panel Chair has discretion to reschedule a hearing if the Chair determines that it is necessary in order to achieve a prompt and equitable resolution.

Standard of Proof: The Hearing Panel will find the Respondent responsible if a preponderance of the evidence indicates that the Respondent violated this Policy. This means the Hearing Panel must determine whether it is more likely than not, based on the information presented at the hearing, that the Respondent is responsible.

Supplemental Material: If the Hearing Panel Chair believes further information is necessary to make an informed decision, the Chair may return the matter to the Investigator for further evidence-gathering.

Audio Recording: The Hearing Officer will audio-record the hearing, but not the deliberations of the Hearing Panel. The audio recording is created for two limited purposes only: for reference by the Hearing Panel during deliberations, for review by the Dean of Students (or designee) in connection with an appeal, and/or for review by either party in order to prepare an appeal. The audio recording is kept for a minimum of 7 years after all appeal options are exhausted.

Hearing Procedures: The following procedures are meant to be general guidelines for conducting a hearing. The Hearing Panel Chair may vary the procedures, including adjourning the hearing, if the Chair determines it is appropriate to do so in order to reach a full and fair understanding of the facts. Procedural issues that arise during the hearing (e.g., relevancy determinations) will be resolved by the Hearing Panel Chair, who may consult with the Hearing Panel, and/or the Title IX Coordinator before making a determination.

The Title IX Coordinator also has authority to vary procedures as necessary to ensure the prompt and equitable resolution of Complaints.

The hearing shall be conducted with all parties physically present in the same geographical location or, upon request by either party or the Hearing Officer, any or all parties, witnesses, and other participants may appear at the Live Hearing virtually, with technology-enabling participants simultaneously to see and hear each other.

1. **Introduction:** After the Parties enter the hearing room, the Hearing Panel Chair will call the hearing to order. The Hearing Chair will introduce all of the individuals present and provide an opportunity for the Parties to ask procedural questions. The Hearing Chair will inform the Parties that the hearing is being recorded.

- 2. Reading of the Alleged Violation(s):** The Hearing Chair will read the alleged violation(s). To each alleged violation, the Respondent will either accept or deny responsibility. If the Respondent declines to answer, the hearing will still proceed. If the Respondent admits responsibility, the Investigator may question the Respondent to identify the conduct to which the Respondent is admitting.

If the Respondent admits responsibility to the conduct giving rise to all of the alleged violations, the Hearing Panel will abbreviate the hearing and only consider information relevant to sanctioning.

If the Respondent admits responsibility to some but not all of the alleged violations, the Hearing Panel may abbreviate the hearing, considering information relevant both to responsibility and sanctioning on the disputed violation(s) and relevant only to sanctioning on the violation(s) admitted.

Presentation of Information: The Hearing Chair will call and question all witnesses, including the Parties. The Parties may ask the Hearing Chair to pose additional questions or inquire further into specific matters by submitting these requests in writing or orally, at the discretion of the Hearing Chair. The Hearing Chair is empowered to reframe or disallow any questions that are irrelevant, redundant, or otherwise inappropriate. The Hearing Board Panel may pose additional questions or inquire further into specific matters.

Parties and Witnesses are expected to respond honestly, and to the best of their knowledge, without guessing or speculating.

Parties have the option not to provide information at the hearing, or to refuse to answer questions. The Hearing Panel will base its decision on the Investigative Report and the information provided at the Hearing.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The Hearing Panel Chair reserves the right to recall any Party or Witness for further questions and to seek additional information.

Closing Statements: After all information is presented, each Party will have the opportunity to make a brief closing statement. The Hearing Panel Chair has the authority to limit lengthy or irrelevant statements. Closing statements are not subject to questioning by the Parties, and are not considered evidence.

Determination of Responsibility: After the closing statements, everyone will be dismissed from the hearing room and the audio-recording device will be turned off so that the Hearing Panel may deliberate in private. In determining responsibility, the Hearing Panel is limited to a consideration of only the violations alleged, and may not find the Respondent responsible for other violations of this Policy. The Hearing Panel must reach a decision on responsibility by majority vote. The vote itself will not be shared with the parties.

Determination of Sanction: If the Hearing Panel finds the Respondent responsible, it will immediately deliberate sanctions. Only the Hearing Panel and the Investigator are present for the deliberations. The Title IX Coordinator will share the Respondent's prior conduct record and sanctioning statements with the Hearing Panel. Any sanction imposed upon the Respondent must be selected from the sanctions identified in the Policy. The determination of sanctions is based upon a number of factors, including: the nature of the violation; the harm suffered by the Complainant; any ongoing risk to either the Victim or the community posed by Respondent; the impact of the violation on the University community; any previous conduct violations; and any mitigating or aggravating circumstances. The Hearing Panel will determine sanctions by majority vote.

If the Respondent is a student organization, the Dean of Students will determine the appropriate sanction.

Notification of Outcome: Within ten (10) calendar days from the date of the conclusion of the hearing, the Title IX Coordinator will communicate in writing to both Parties the results of the hearing (consistent with the University's obligations under federal law) and procedures for appeal. The decision will include, in writing:

- The allegations
- Findings of fact with rationale for each finding
- Conclusion of application of facts to the policy
- Sanctions and Remedies
- Procedure for appeal

IX. SANCTIONS

(Note: The following procedures shall apply to those cases that do not fall within Appendix A)

A Hearing Panel will impose at least one of the sanctions listed below for any Respondent found responsible of a violation of this Policy. At the recommendation of the Hearing Panel, Respondents may also be subject to an accountability plan imposed by the Hearing Panel, as described below. Accountability Plans and underlying recommendations are not subject to appeal.

In cases where the Respondent is a student organization, suspension of certain activities or loss of University recognition may be the sanction imposed by the Dean of Students.

Sanctions

- Letter of Censure:** Official disciplinary action conveying to the student that the student's behavior was unacceptable and that any future prohibited conduct may result in more severe disciplinary action, including Disciplinary Probation, Suspension or Expulsion.
- Disciplinary Probation:** Pre-suspension period in which the student's behavior is under University review, conveying that the student's behavior was unacceptable and that any future prohibited conduct may result in more severe disciplinary action, including Suspension or Expulsion.
- Suspension:** Separation from the University for a period of time no less than the remainder of the current semester and no more than seven semesters. Suspension may be effective immediately or deferred until the end of the current semester, subject to the limitations on University representation during the period that suspension is deferred. During the period of suspension, the Respondent is not permitted on campus without the written permission from the Dean of Students. The record of suspension will be maintained by the Dean of Students' Office in accordance with the retention of student record policy. The record will be maintained by the Office of the Registrar only during the period of Suspension. Any refund of room, board, tuition or fees as result of the suspension shall be in accordance with applicable Finance Office policies.
- Expulsion:** Permanent separation from the University effective immediately. The record of expulsion is maintained in both the Dean of Students' Office and the Office of the Registrar. Any refund of room, board, tuition or fees as result of the expulsion shall be in accordance with applicable policies. No academic credit may be earned for that semester.
- Degree Revocation:** Revocation of any degree awarded for a student who is found responsible for prohibited conduct but has already received a degree. Revocation of a degree requires Board of Trustee approval.

Accountability Plans

In addition to the above sanctions, the Hearing Panel may consult with the Dean of Students to impose an Accountability Plan, including but not limited to terms such as:

- a. Restitution for loss, damage or actual expenses incurred as a result of the Respondent's behavior.
- b. Volunteer service as a corrective measure or learning experience within the University or Lewisburg communities.
- c. Online tutorials designed to educate the Respondent on a particular topic that is relevant to the prohibited conduct and/or designed to improve the Respondent's decision-making.
- d. Participation in educational programming, including alcohol and other drugs evaluations, assessment or reflection activities.
- e. Restriction on or prohibition against participation in student activities and/or eligibility to represent the University in any official function or leadership position (e.g. varsity athletics, student leadership positions, cheerleader, committee chair, Bucknell Student Government congress member or officer, or elected office in any recognized student organization).
- f. Change in housing assignment or academic schedule.
- g. Loss of privileges, including housing, organization participation or event attendance.
- h. Restriction of contact with other specified members of the University community.
- i. Any other measure determined appropriate by the Dean of Students.

See Appendix A *Sanctions and Remedies for TIX regulations*

X. REMEDIES

Following a hearing, the Title IX Coordinator, in consultation with the Dean of Students, will determine whether remedies for the Complainant and/or the University community are necessary to eliminate any Hostile Environment, prevent its occurrence, and remedy its effects.

Remedies for the Complainant may include, but are not limited to, the imposition or continuation of a no-contact order, employment, transportation, residence, or academic modifications, support services, and other measures to ensure safety. Remedies for the broader University community may include, but are not limited to, training and education, support services, review and, if appropriate, revision of policy, assessment of campus climate, and other measures to promote safety.

See Appendix A *Sanctions and Remedies for TIX regulations*

XI. APPEAL

Either Party may appeal a Hearing Panel decision on responsibility or sanctions (but not accountability plans or recommendations) in writing to the Dean of Students within five calendar days from the time of written notification of the decision. The appeal may be based only on one or more of the following grounds:

1. There is previously unavailable relevant evidence that likely would have significantly impacted the outcome of a hearing.
2. There was procedural error that likely would have significantly impacted the outcome of the hearing.
3. The sanctions imposed were substantially disproportionate to the findings.
4. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome.

The appeal shall consist of a written statement requesting review of the conduct decision or sanction and explaining grounds for appeal. The Appellee will be provided a copy of the appeal (with grounds not subject to appeal redacted) and will have three calendar days from date of the written notification to submit a written response to the Dean of Students, if desired. A copy of the response will be provided to the Appellant. No further communications from the Parties in support of or opposition to the appeal will be accepted. The Hearing Panel Chair may have the opportunity to submit a statement explaining the basis for the decision and/or sanction(s).

In cases where the Respondent is a student organization, the appeal deadlines are the same as stated above. The _____

appeal must be filed with the Provost.

The appeal decision by the Dean of Students or designee will typically be made within 10 calendar days after the time for the Appellee to respond to the appeal has passed.

If the Dean of Students or designee determines that previously unavailable relevant information is presented that likely would have significantly impacted the outcome of the hearing, the Dean of Students or designee will ask the original Hearing Panel to reconvene to consider the information and render a determination after considering the new information.

If the Dean of Students or designee determines there was procedural error that likely would have significantly impacted the outcome of the hearing, the Dean of Students or designee will order a new hearing before a new Hearing Panel.

If the Dean of Students or designee determines the sanction to be substantially disproportionate to the findings, the Dean of Students or designee may revise the sanction or order a new hearing before a new Hearing Panel solely for the purpose of sanctioning.

The Dean of Students or designee will provide written notification (which may include by email) of the result of the appeal (consistent with the University's obligations under federal law) to the Parties within three (3) calendar days from the date of the decision.

See also Appendix A Appeals for TIX regulations

XII. INFORMATION FOR STUDY ABROAD STUDENTS

Students who have experienced Sex Discrimination (including Sexual Misconduct), Relationship Violence or Stalking in a study-abroad program are encouraged to promptly report incidents to on-site program staff, who can explain options for disciplinary action and reporting criminal offenses to local authorities, arrange for medical treatment, and offer resources and interim measures.

Students may also report incidents to the Title IX Coordinator:

Title IX Coordinator:

570-577-1554
232 Marts Hall
Bucknell University
Lewisburg, PA 17837
titleix@bucknell.edu
www.bucknell.edu/titleix

XIII. RESOURCES & SUPPORT SERVICES

Bucknell University recognizes that in instances of alleged Sex Discrimination (including Sexual Misconduct), Relationship Violence and Stalking, community assistance is both necessary and helpful. Parties are encouraged to access the support services identified below:

CONFIDENTIAL RESOURCES

Interpersonal Prevention and Advocacy Coordinator

306 H Elaine Langone Center
570-577-1542
lah050@bucknell.edu

For Complainants:

The Interpersonal Violence Prevention and Advocacy Coordinator (IVPAC) is a trauma-informed staff member whose

responsibility is to provide confidential support and information for students about the medical, academic and legal options or needs they may have following a sexual assault. With a focus on empowering the survivor to make their own decisions, the IVPAC can facilitate referrals, accompany survivors to medical treatment, answer questions about legal options and ensure appropriate follow-up and support. They also connect survivors with resources that can minimize the impact an assault may have on a student's academic career.

Counseling & Student Development Center (CSDC)

570-577-1604 (business hours and after-hours crisis service)

Graham Building

Bucknell University

Lewisburg, PA 17837

www.bucknell.edu/counseling

For Complainants & Respondents

CSDC provides individual and group counseling, psychiatric consultation, crisis intervention, consultation and outreach programming. Services are available for all students free of charge.

Bucknell Student Health

570-577-1401 (business hours)

Graham Building

Bucknell University

Lewisburg, PA 17837

www.bucknell.edu/studenthealth

Bucknell Student Health provides medical attention that includes treatment of any physical injuries and treatment to prevent pregnancy and certain sexually transmitted infections (generally most effective within 72 hours).

Bucknell University Religious & Spiritual Life

570-577-1592 (business hours)

109 Rooke Chapel

Bucknell University

Lewisburg, PA 17837

www.bucknell.edu/chaplains

For Complainants & Respondents

The Chaplains for the Catholic, Jewish, Muslim and Protestant communities are available to discuss religious, spiritual and personal issues.

Transitions

800-850-7948 (24 hours/day)

Lewisburg, PA 17837

For Complainants

Transitions is a local crisis center that provides confidential counseling services, advocacy, emergency shelter and relocation assistance to survivors of sexual assault, domestic violence and other serious offenses.

Evangelical Community Hospital:

570-522-2640

Lewisburg, PA 17837

Evangelical Community Hospital's Sexual Assault Nurse Examiners (SANE nurses) are on call 24 hours a day to conduct sexual assault evidentiary examinations to collect and preserve evidence (generally within 96 hours of an incident). Ordinarily, when an evidentiary examination is performed, the hospital will contact local police to inform them that evidence was collected, but this does not mean that one has to proceed with criminal charges. Treatment is also available to prevent pregnancy and certain sexually transmitted infections (generally within 72 hours of an incident) and for injuries.

ADDITIONAL RESOURCES

Title IX Coordinator:

570-577-1554
232 Marts Hall
Bucknell University
Lewisburg, PA 17837
titleix@bucknell.edu
www.bucknell.edu/titleix

The University's Title IX Coordinator is responsible for overseeing all reports of Sex Discrimination (including Sexual Misconduct), Relationship Violence and Stalking and identifying and addressing any patterns or systemic problems that arise during review of such reports. Allegations may be reported directly to the Title IX Coordinator. The Title IX Coordinator can answer questions and provide information concerning this Policy, available resources and support services, and external criminal and legal options. The Title IX Coordinator may issue no-contact orders. The Dean of Students may arrange other supportive measures in consultation with the Title IX Coordinator. A Complainant who wishes to initiate disciplinary proceedings should submit a Complaint to the Title IX Coordinator.

Dean of Students**

570-577-1601
211 Elaine Langone Center
Bucknell University
Lewisburg, PA 17837

Department of Public Safety

570-577-1111 (emergency, 24 hours/day)
570-577-3333 (non-emergency)
580 Snake Road
Bucknell University
Lewisburg, PA 17837
www.bucknell.edu/publicsafety

Buffalo Valley Regional Police

911 (emergency, 24 hours/day)
570-524-5151 (non-emergency)
2009 West Market Street
Lewisburg, PA 17837

Human Resources**

570-577-1631
1st Floor, Cooley Hall
Bucknell University
Lewisburg, PA 17837
hr@bucknell.edu www.bucknell.edu/humanresources

***** These resources will protect privacy and confidentiality to the extent possible and allowed by law, but they are required to inform the Title IX Coordinator of any reports of sexual misconduct or relationship violence. The Title IX Coordinator will evaluate any request for confidentiality in the context of the University's responsibility to provide a safe and nondiscriminatory environment to all members of its community.***

Sex Discrimination (including Sexual Misconduct), Relationship Violence, and Stalking allegedly committed by a faculty or staff member may also be reported to Human Resources. Complaints against faculty or staff members will be handled consistent with applicable procedures in the faculty or staff handbook and policies.

APPENDIX A: Procedures for Allegations of Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking Violating Title IX

Under the Department of Education's Title IX Regulations, published May 19, 2020, the following procedures will apply **only** to a narrow category of cases. Those cases meeting the definitions and jurisdictional elements below will follow procedures. Those cases that do not fit within these new guidelines will be handled through Bucknell University's Sexual Discrimination, Sexual Misconduct, Relationship Violence, and Stalking Policy & Procedures for Resolving Complainants Against Students; this is not to suggest that any case is more or less important, but instead a reflection of federal regulations that apply only to a specifically-identified set of cases.

The effective date of these procedures is on August 14, 2020. These procedures will apply in all cases where a Formal Complaint of prohibited conduct under these procedures is made on or after August 14, 2020.

Should these procedures be revoked in this manner, any conduct covered under them shall be investigated and adjudicated in accordance with Bucknell University's Sexual Discrimination, Sexual Misconduct, Relationship Violence, and Stalking Policy & Procedures for Resolving Complainants Against Students.

If you are unclear about any of the provisions below and would like to get more information, you may speak on a non-confidential basis with the Title IX Coordinator. If you would like to have more information, but prefer to speak with someone confidentially, you may speak with the Interpersonal Violence Prevention & Advocacy Coordinator or the Counseling & Student Development Center.

DEFINITIONS APPLICABLE UNDER APPENDIX A:

Sexual Harassment: Conduct 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:

Quid Pro Quo: When a Bucknell University employee conditions the provision of a benefit or service of the University on an individual's participation in unwelcome sexual conduct

Sexual Harassment: Unwelcome conduct* determined by a reasonable person to be so severe and pervasive and objectively offensive that it effectively denies a person equal access to an educational 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 that may be evidenced.*

Sexual Assault includes both forcible and non-forcible sexual offenses, as defined below:

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

- A. The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.¹
- B. 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.
- C. 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

¹ Carnal knowledge is defined by Black's Law Dictionary, as "the act of a man having sexual bodily connections with a woman; sexual intercourse."

because of temporary or permanent mental or physical incapacity.

- D.** 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, includes any of the following:

- A. Incest:** Non-forcible sexual intercourse between persons who are related to each other, within the degrees wherein marriage is prohibited by Pennsylvania law.
- B. Statutory Rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent of 16 years of age.

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 domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

Sex-Based Stalking: Engaging in a course of conduct on the basis of sex directed at a specific person, that would cause a reasonable person to fear for the person's safety, or the safety of others or suffer substantial emotional distress. For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to acts in which the Respondent directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.

This procedure applies only to the following cases:

1. Nature of Complaint:

- A complaint of Dating Violence, Domestic Violence, Stalking or Sexual Assault as defined above.
- A complaint of sexual harassment in which the harassment was so severe and pervasive and objectively offensive that it denied the complainant equal access to an educational program or activity, or denied the employee the ability to continue their work at Bucknell University.
- A complaint of quid pro quo sexual harassment by an employee respondent against a student.

If yes to one of the above, continue. If no, please see Sexual Discrimination, Sexual Misconduct, Relationship Violence, and Stalking Policy & Procedures for Resolving Complainants Against Students.

2. Location:

- The incident(s) occurred on the institution's campus, within the United States.
- The incident(s) occurred in a building under institution's control, such as in a sorority or fraternity house of an affiliated sorority or fraternity, and within the United States.
- The incident(s) were part of one of the institution's programs or activities, such as part of a field trip or team athletic event, and within the United States.

If yes to one of the above, continue. If no, please see Sexual Discrimination, Sexual Misconduct, Relationship Violence, and Stalking Policy & Procedures for Resolving Complainants Against Students.

3. The institution has control over the respondent, meaning the Respondent is a student (whether applicant, admitted or currently enrolled) or employee (applicant, hired but not yet working, or employed).

If yes to one of the above, continue. If no, please see Sexual Discrimination, Sexual Misconduct, Relationship Violence, and Stalking Policy & Procedures for Resolving Complainants Against Students.

4. Complainant is participating in, or attempting to participate in, a University program or activity.

If yes to one of the above, continue. If no, please see Sexual Discrimination, Sexual Misconduct, Relationship Violence, and Stalking Policy & Procedures for Resolving Complainants Against Students.

Reporting a Title IX Complaint:

Reports of violations of this Policy may be made to the Title IX Coordinator, or to any University official with authority to institute corrective measures on behalf of the University. This standard is not met when the only University official with actual knowledge is a Respondent.

A Formal Complaint is a document signed and filed by a Complainant, or signed by the Title IX Coordinator, against a Respondent alleging conduct which would constitute a violation of the policies as set forth in this Appendix, and requesting that the University investigate the allegations(s). A Formal Complaint may not be filed anonymously. When the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a Party under this Policy and the Title IX Coordinator will comply with the requirements of impartiality under this Policy.

The Formal Complaint shall include a concise statement describing the incident, when and where the misconduct occurred, the identity (if known) of the person against whom the complaint is being made, why the Complainant believes it violates University policy, and a proposed resolution (whether investigation and adjudication, or an alternative resolution). The Complainant shall be instructed to provide and preserve all corroborating or potentially relevant evidence in any format, list potential witness names and sign the statement. From this information, the Title IX Coordinator shall determine whether the case falls within the jurisdiction of this policy.

You may file a Formal Complaint at any time by using the form provided by the Title IX Coordinator. You may return the form by dropping it off at the Title IX office, by email or by mail. Upon receipt of a formal complaint, the Title IX Coordinator or designee will reach out to the complainant to conduct an intake interview (see below).

Note: In the event that the Complainant declines to participate in an intake interview, if the Formal Complaint contains an allegation meeting all of the jurisdictional elements of this policy, the Formal Complaint is signed, and the Formal Complaint requests an investigation, the Title IX Coordinator will within two business days put the Respondent on notice of the allegation and commence the investigation process.

You may also notify the Title IX Coordinator if you believe you, or someone else, may have experienced conduct that would be a violation of this policy. The Title IX Coordinator will then reach out to the Complainant and schedule an intake interview.

Intake Interview

Upon notice of alleged sex-based discrimination, sexual harassment and/or retaliation, the Title IX Coordinator will reach out to the Complainant to schedule a meeting or intake interview. During the intake interview, the Title IX Coordinator will assess the potential Title IX complaint for all of the jurisdictional elements required to proceed under this Policy. In the event the allegation involves a sexual assault, dating or domestic violence, or stalking, within Clery geography, the Title IX Coordinator will also notify the Clery Coordinator of the allegations.

The Title IX Coordinator will offer supportive measures. Supportive Measures are non-disciplinary, non-punitive, free of charge individualized services offered to the Complainant and/or the Respondent by the University as appropriate and reasonably available. Such measures are designed to restore or preserve equal access to the University's education

program or activity without unreasonably burdening the other Party. The Title IX Coordinator will consider the complainant's wishes with respect to these measures. These measures are available with, or without, the filing of a Formal Complaint. Such Supportive Measures may include, but are not limited to:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual no-contact directives
- Changes in work or housing locations
- Leaves of absence
- Increased security
- Monitoring of certain areas of the campus

Note: Any Supportive Measures put in place will be kept confidential, except to extent that doing so impairs ability of the institution to provide the supportive measures. For example, in order to effectuate a housing change, staff in Residential Education shall be informed of the need to assist with a housing change as directed by the Title IX Coordinator, but will not be provided with any of the details of any complaint.

Supportive measures are free of charge supportive services offered to the Complainant and/or the Respondent by the University as appropriate and reasonably available. At the time that supportive measures are offered, the Title IX Coordinator will inform the Complainant, in writing, that the Complainant may file a formal complaint with the University either at that time or in the future, if Complainant has not done so already. A Complainant does not have to file a Formal Complaint in order to receive supportive measures.

Notice to Respondent

Upon the filing of a Title IX Formal Complaint requesting an investigation, or when the Title IX Coordinator signs the Formal Complaint and commences an investigation, written notice shall be provided to the Respondent. Such notice shall include the following information:

- The specific allegation and the specific conduct that is alleged to have occurred
- The identity of the Complainant
- The date and location (if known) of the conduct that is alleged to have occurred
- A copy of this Policy, which contains the process that will be followed, including an explanation that each Party as well as their Advisers (if Parties have Advisers) shall have the right to inspect and review all evidence directly related to the allegation(s) prior to the completion of the investigation
- 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 process below, there is a determination of responsibility
- An explanation that each Party may be accompanied by an Adviser or support person of their choice, who may be a parent, friend, faculty or staff member or an attorney
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of three business days' notice
- The Bucknell University alcohol and drug amnesty policy
- The name and contact information for the assigned Investigator
- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant.
- Information regarding prohibition of providing false information

Note: Should additional allegations be added at a later time, the Respondent will again be provided with a full written notice.

Emergency Removal Provisions

If Bucknell determines that the conduct, as alleged, poses a safety risk to one or more students, or to Bucknell's educational environment, Bucknell may instruct that the Respondent be suspended, on an interim basis, from Bucknell, from residence halls, or from specific programs or activities. Any such assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis. If Bucknell determines that an immediate physical threat to the health or safety of students or others justifies removal, then a Respondent may be suspended on an interim basis. The decision to do so will be provided to Respondent in writing.

The Party must be given the opportunity to challenge the determination. The challenge must be in writing to the Dean of Students within two days of receipt of the notice.

The decision to place any Respondent on an interim suspension shall not be considered as evidence that any determination has been made regarding potential responsibility.

Standard of Evidence

The decision regarding a Respondent's responsibility will be determined by a preponderance of the evidence. This means that the Decision Maker will decide whether it is "more likely than not," based upon all of the evidence, that the Respondent is responsible for the alleged violation(s).

Prohibition On False Evidence Provided During Title IX Process

Each party and every witness is expected to provide truthful information to the Investigator, Hearing Officer and Appeals Officer.

Should any Party, or a Witness, provide, possess or use false information, including furnishing false information to any University official, enforcement officer or emergency response/medical personnel, faculty member, department or office; forging, altering or misusing any University document, record or instrument of identification; or assuming the name of a University official, faculty member or another student as part of this process, this may be considered a violation of Student Code of Conduct and will be referred to the appropriate office for further handling.

Mandatory Dismissal

At any time prior to the commencement of a hearing, any case proceeding under this Policy will be dismissed if it is determined that the conduct at issue does not meet the jurisdictional or definitional requirements of this Policy. If the alleged conduct would, if true, support a finding that another Bucknell policy has been violated, Bucknell may, in its sole authority, transfer the case for further handling under the appropriate policy.

Upon a dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate.

Transfer of Cases, Sharing of Information

For any case brought under this Policy, should the case be dismissed and then transferred to another office, Bucknell shall have the right to transfer all communications and information gathered to any other School administrator who will be reviewing and/or handling the case. For those cases that are dismissed under this Appendix A and resolved under any other policy or procedure, all communications and information gathered may be considered as part of that investigation or adjudication process.

No Conflict of Interest or Bias

Any individual carrying out this Policy shall be free from any actual conflict of interest or bias that would impact the handling of this matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Associate Dean for Health & Wellness who will take the role of Acting Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue. Should any Investigator have a conflict of interest, the Investigator is to notify the Title IX Coordinator upon discovery of the conflict.

Each party may object to the Title IX Coordinator or designated Investigator, Hearing Officer, or Appeals Officer, on the grounds of an actual bias or conflict of interest. If either of the parties objects, they must notify the Title IX Coordinator (or the Associate Dean for Health & Wellness in the event of an actual conflict of interest or bias on the part of the Title IX Coordinator), in which case the Title IX Coordinator will evaluate whether the objection is substantiated. The party raising the objection will be notified in writing of the findings within two business days. If it is determined that an actual bias or conflict of interest exists, the person who was the subject of the objection will be removed and replaced.

Presumption of Non-Responsibility

The decision to proceed with an investigation is not a determination that the respondent has engaged in the conduct as alleged. Any respondent is presumed not responsible for the conduct that is the subject of the investigation, unless and until a decision of responsibility has been made upon the completion of the adjudication process.

Adviser: All persons who are a Complainant or a Respondent are permitted to bring an Adviser of their own choosing to any meeting or interview to provide support. The Adviser may be any person, including a family member or an attorney. The Adviser may accompany the student Party to any and all portions of the grievance process. Other than asking questions of the other Party, or of witnesses, at the hearing, the Adviser may not participate directly in, or interfere with, the proceedings. Although reasonable attempts will be made to schedule proceedings consistent with an Adviser's availability, the process will not be delayed to schedule the proceedings at the convenience of the Adviser. The Title IX Coordinator has the discretion to remove the Adviser from the proceedings if the Adviser interferes with the proceedings. For any Complainant or Respondent who does not have an Adviser at the hearing, one shall be provided, at no charge, for purposes of cross-examination of the other Party or Witnesses.

During a Title IX Hearing, the Adviser's role is to ask questions of the other Party, or of Witnesses (cross examination). Other than performing this function, the Adviser is not to otherwise address the Hearing Officer, the Party whom they do not represent, or any witness. The University will provide a trained Adviser of its choosing to any Complainant or Respondent who does not have an Adviser at the hearing.

Requests for Delays, and Extensions of Time

The Title IX Coordinator may extend any deadlines within this Policy, for good cause shown and documented. Complainant and Respondent will be notified in writing of any extension, the reasons for it, and projected new timelines.

Resolution Methods

Alternative Resolution

When the Complainant requests 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 identity of the Complainant
- The date and location (if known) of the conduct that is alleged to have occurred
- A copy of this Policy, which contains the information about both the Alternative Resolution process as well as the formal complaint process
- 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 process below, there is a determination of responsibility
- An explanation that each Party may be accompanied by an Adviser or support person of their choice, who may be a parent, friend, faculty or staff member, or an attorney
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of three business days' notice
- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant
- An explanation of the consequences of participating in the Alternative Resolution process, including a summary of the records that will be maintained or could be shared if the parties elect an Alternative

Resolution.

The Alternative Resolution process is generally expected to be completed within 20 calendar 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.

Participation in an Alternative Resolution is voluntary, and both parties must agree, in writing. Even if the parties agree to an Alternative Resolution, it is within the discretion of the Title IX Coordinator to determine that a report must proceed through Formal Complaint process in certain cases (e.g., where a Respondent is alleged to have violated the Title IX Policy on multiple occasions or with multiple Complainants, or where the reported conduct, if true, presents a threat to the safety of Bucknell community). 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 Formal Resolution.

Once the final terms of an Alternative Resolution have been agreed upon by both parties, in writing, the matter shall be considered closed, and will not then proceed to a Formal Complaint process. Any resolution reached through an alternative resolution process will be confirmed in writing and provided to the parties within five business days of reaching a resolution.

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

Allegations of quid pro quo harassment of a student by an employee shall not be handled through the Alternative Resolution process, and instead only through the Formal Complaint process.

Investigation Process:

The Investigation process, up to evidence review, is generally expected to take 40 business days, which may be extended for good cause by the Title IX Coordinator. Both Parties shall be notified, in writing, of any extension granted and the reason for the extension.

The Investigator will interview all Parties and relevant witnesses, and gather relevant documentary evidence provided by the Parties and any identified witnesses. Interviews may be conducted in person, or via video conference. The Investigator shall take notes and provide a copy of those notes to the person interviewed, who shall have three business days to make any changes or corrections. If no changes or corrections are received, the notes, as taken, shall be presumed correct.

The Investigator shall also prepare an Interview Summary of each interview. The Investigator will share the Interview Summary with the interviewee. The interviewee will have three business days opportunity to correct or comment on any statements made in the Interview Summary. The deadline may be extended for good cause, upon request to the Investigator. If the interviewee has no corrections to, or comments on, the Interview Summary, the interviewee will sign an acknowledgement that the interviewee has reviewed and agrees that the Interview Summary is accurate. If the interviewee has corrections or comments to the Interview Summary, the interviewee may submit a written response within three 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 Summary will be presumed to be accurate. In all instances where the Investigator includes the Interview Summary as an exhibit to a report, the Investigator will either adjust the Interview Summary as may be appropriate, or include any response provided with the Investigation Report.

Each party shall be provided with an opportunity to offer relevant witnesses and evidence. The Investigator will consider all relevant evidence, both inculpatory and exculpatory.

Any and all information for consideration by the Hearing Officer must be provided to the Investigator as part of the investigation process. Information that was not provided to the Investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to or available to the Parties at the time of the investigation. In the event that new evidence that was not previously available is provided at the hearing, either the Hearing Officer or Title IX Coordinator may send the case back to the Investigator.

Evidence Review

At the conclusion of all interviews and fact gathering, and when the evidence has been gathered, the Investigator will provide each Party the opportunity to review all of the evidence gathered that is directly related to the allegation(s). This shall include both inculpatory and exculpatory evidence. Given the sensitive nature of the information provided, the information will be provided the information in a secure manner (e.g., by providing digital copies of the materials through a protected, "read-only" web portal or by email). Neither the Complainant nor the Respondent (nor their advisers) may copy, remove, photograph, print, image, videotape, record or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this policy may be subject to discipline. Any Adviser who fails to abide by this policy may be subject to discipline and/or may be excluded from further participation in the process.

Each Party may respond to the evidence gathered. Each party shall have ten days in which to respond to the evidence. Each may provide a response in writing, to the Investigator. The Investigator will incorporate any response provided by the Parties into the Summary of Evidence Report. Along with their response to the evidence, each Party may also submit a written request for additional investigation, such as a request for a follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the Investigator to pose to witnesses or to the other Party. This response may include written, relevant questions that a Party would like the investigator to ask of any Party or Witness. If any of the questions posed will be excluded as not relevant, or not likely to lead to relevant information, the Investigator shall explain to the party who proposed the questions any decision to exclude a question as not relevant.

Upon receipt of each Party's response to the evidence reviewed, the Investigator will determine if any additional investigation is needed.

In addition, either Party may offer new witnesses or other new evidence. The Investigator will take into account the responses provided, shall pose questions to Parties or Witnesses as appropriate, and interview new witnesses, and accept new, relevant, evidence.

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 five days in which to respond to the new evidence. Each may provide a response in writing, or verbally, to the Investigator. The Investigator will incorporate any written response provided by the Parties into the Summary of Evidence Report.

Any evidence to be considered by the Hearing Officer must be provided to the Investigator. Information that was not provided to the Investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to, or available to, the Parties at the time of the investigation. Should new evidence be presented at hearing, the Hearing Officer has the authority to send the matter back for further, limited, investigation.

Exclusion of Questions Regarding Complainant's Past Sexual Behavior, or Predisposition

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be asked during either the investigation or hearing, 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.

Investigation Report

The Investigator shall then prepare a written report summarizing all of the relevant evidence gathered and all investigative steps taken to date. Each Party shall be provided with a copy of the written report and shall have 10 days to provide a response. Upon receipt of any response(s), the Investigator shall then complete the Investigation Report, which shall include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes and interview summaries, showing the original (as sent to each interviewee for review) and the revised version, after corrections or additions by each interviewee.

Conclusion of Investigation, Notice of Hearing

The Title IX Coordinator will review the final Investigation Report, with attachments. The Title IX Coordinator may require that the Investigator conduct additional investigation. Once the Investigation Report is final, it shall be provided through a protected, read-only, server, together with all attachments, to each Party, their Adviser and the Hearing Officer.

At the same time, each Party shall be provided with a Notice of Hearing, which shall include information regarding the date of the hearing, the identity of the Hearing Officer and hearing panel, and any deadlines for submission of evidence, names of witnesses or questions to be reviewed by the Hearing Officer to ensure relevance. The hearing shall be scheduled no less than 10 business days from the date of the Notice of Hearing.

Within three days of receipt of the Notice of Hearing, either Party may object to the Hearing Officer, or hearing panel, on the basis of an actual bias or conflict of interest. Any objection is to be in writing, and sent to Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the hearing officer and appoint another.

Adviser for Hearing: Each party is entitled to one Hearing Adviser at the hearing. The role of the Hearing Adviser is to ask questions of the other Party and of Witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party shall be permitted to ask questions of the other Party, or of a Witness. An Adviser of Bucknell's choosing shall be provided for any party who does not have an Adviser. During the pre-hearing meeting with each Party, should the Complainant or Respondent not have an Adviser, one may be assigned.

Hearing: Hearings may be in person or via videoconferencing. If by videoconference, Parties will receive written procedures for the videoconference within ten days of the hearing. Prior to the hearing, the Hearing Chair shall have received instruction regarding the operation of any audio-visual equipment for the hearing.

Each hearing shall be audio recorded. No other individual is permitted to record while the hearing is taking place. The recording is the property of Bucknell University but shall be available for listening by contacting the Title IX Office.

The Complainant, Respondent and the Hearing Officer all have the right to call Witnesses. Witnesses must have information relevant to the incident. 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 the names of witnesses they would like to call no less than five days in advance. The request must be made in writing to the Hearing Chair.

Three days prior to the hearing, each Party shall submit in writing to the Hearing Officer a preliminary list of questions they wish to pose to the other Party, or to a witness. If the Hearing Officer determines that any are not relevant, the Hearing Officer shall explain the reason for the exclusion of the question at the hearing. Each Party shall also be permitted to ask additional questions at the hearing.

The Hearing Officer 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 such limitation shall be communicated to the parties no later than three days before the hearing.

The hearing shall start with an overview of the hearing process from the Hearing Officer. The hearing officer will then pose questions to the Complainant. When the hearing officer has concluded, the Respondent's Adviser will then pose questions to the Complainant. If the hearing officer has any additional questions, those will be posed by the Hearing Officer. If the Respondent's Adviser has any follow-up questions for the Complainant, the Adviser will ask those questions. The same process will then be followed for questions posed to the hearing officer, followed by questions from the Complainant's advisor to the Respondent. This process will then be followed for any Witnesses who are to be interviewed.

The Hearing Officer may refuse to allow those questions that seek information that is not relevant under this Policy. The Hearing Officer is not required to provide a lengthy or complicated explanation, but is required only to explain the reason why a question is not relevant.

During the hearing, if either Party has any follow-up or clarifying questions for the other Party, or for Witnesses, the Party will inform the Hearing Officer regarding the additional questions and the Party's Adviser will be permitted to ask questions that are determined to be relevant by the Hearing Officer.

Any Party or Witness may choose not to answer questions. However, the decision-makers can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The decision-makers may not draw an inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions. Each Party shall have 5 minutes to make a closing statement. This statement is to be made by the Party directly, and not by their Adviser. This closing statement is not evidence, but is intended as an opportunity to address the Decision-Maker directly.

The Hearing Officer will then prepare a report. To the extent credibility determination needs to be made, the determination shall not be based on a person's status as Complainant, Respondent or Witness. The Hearing Officer's report shall be provided to the parties 10 business days after the hearing.

The Hearing Officer's report will include:

- The allegations
- Description of all procedural steps
- Findings of fact
- Conclusion of application of facts to the Policy
- Rationale for each allegation
- Sanctions and Remedies
- Procedure for appeal

The written decision shall not be redacted, and shall be sent simultaneously to each Party and their Adviser(s).

Sanctions and Remedies

Upon conclusion of the adjudicating process, when there is a finding of responsibility, the Complainant will be offered such remedies designed to restore or preserve equal access to the institution's education program or activity. Some examples are individualized supportive may include, but are not limited to the imposition or continuation of a no-contact order; employment, transportation, residence or academic modifications; support services and other measures to ensure safety; tutoring; and counseling.

Potential sanctions

- a. **Letter of Censure:** Official disciplinary action conveying to the student that the student's behavior was unacceptable and that any future prohibited conduct may result in more severe disciplinary action, including Disciplinary Probation, Suspension or Expulsion.
- b. **Disciplinary Probation:** Pre-suspension period in which the student's behavior is under University review, conveying that the student's behavior was unacceptable and that any future prohibited conduct may result in more severe disciplinary action, including Suspension or Expulsion.
- c. **Suspension:** Separation from the University for a period of time no less than the remainder of the current semester and no more than seven semesters. Suspension may be effective immediately or deferred until the end of the current semester, subject to the limitations on University representation during the period that suspension is deferred. During the period of suspension, the Respondent is not permitted on campus without the written permission from the Dean of Students. The record of suspension will be maintained by the Dean of Students' Office in accordance with the retention of student record policy. The record will be maintained by the Office of the Registrar only during the period of Suspension. Any refund of room, board, tuition or fees as result of the suspension shall be in accordance with applicable Finance Office policies.

- d. **Expulsion:** Permanent separation from the University effective immediately. The record of expulsion is maintained in both the Dean of Students' Office and the Office of the Registrar. Any refund of room, board, tuition or fees as result of the expulsion shall be in accordance with applicable policies. No academic credit may be earned for that semester.
- e. **Degree Revocation:** Revocation of any degree awarded for a student who is found responsible for prohibited conduct but has already received a degree. Revocation of a degree requires Board of Trustee approval.

Appeals

Appeals may be filed by either Party. Appeals shall be sent to the Dean of Students. When an appeal is filed, the other Party shall be notified, in writing, within one business day, and shall then have five days to respond to the appeal. Any Party's decision not to submit a reply to an appeal is not evidence that the non-appealing Party agreed with the appeal.

The appeals process is documentary only, and no hearing is held.

The Appeals Officer shall not have any actual conflict of interest or bias. Within three days of receipt of the Hearing Officer's report at the conclusion of the hearing, either Party may object to the Appeals Officer on the basis of an actual bias or conflict of interest. Any objection is to be in writing, and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the appeals officer and appoint another.

Appeals may be filed on the following grounds:

- **Procedural Error:** A procedural error occurred that significantly impacted the outcome of the investigation or hearing. This may include a conflict of interest or substantiated bias by the Title IX Coordinator, Investigator or Decision-Maker that affected the outcome. A description of the error and its impact on the outcome of the case must be included in the written appeal.
- **New Evidence:** New evidence or information has arisen that was not available or known to the Party during the investigation or hearing, and that could significantly impact the findings. Information that was known to the Appellant during the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal.
- **Sanctions:** The sanctions imposed were substantially disproportionate to the findings.
- **Bias or Conflict:** The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome.

The written appeals decision shall be sent simultaneously to both parties. The findings are now final and there is no further appeal.

Consolidation of Cases

In the event that the allegations under this Policy involve allegations of a violation of a separate policy, whether Student Code of Conduct, *Faculty Handbook*, or *Staff Handbook*, Bucknell shall have the right, within its 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 Policy.

Training for Investigators, Hearing Officers, Hearing Panel, Appeals Officers, Title IX Coordinator

The Title IX Coordinator, Sanctioning Official, and Appeals Officer must have had the following training prior to commencing any role in any case under this Policy:

- The definition of sexual harassment under § 106.30(a)
- The scope of the University's education program or activity as defined by the same regulations
- How to conduct investigations (not required for hearings or appeals officers), hearings, appeals and informal resolution processes
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias

Hearing officers and hearing panel must have training on the following:

- The definition of sexual harassment under § 34 C.F.R. § 106.30(a)
- The scope of the University's education program or activity as defined by the same regulations
- How to conduct investigations (not required for hearings or appeals officers), hearings, appeals and informal resolution processes
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias
- Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant per the regulations

Any individual who will be coordinating any hearing under this process must also have training on how to use any technology that will be used at a live hearing, such as recording equipment, or platforms designed to permit virtual attendance at a live hearing.

Investigators shall receive the following training:

- The regulations' definition of sexual harassment
- The scope of the University's "education program or activity" as defined by the regulations
- How to conduct investigations, hearings, appeals and informal resolution processes
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias
- Issues of relevance
- How to create an investigative report that fairly summarizes relevant evidence

Record Retention

All records relating to any procedure or training carried out under this process shall be maintained for seven years.