

Policy on Rights and Responsibilities Under Title IX

GOVERNANCE AND LEGAL

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Related Policies:

Policy on Equal Opportunity

Policy on Sexual Harassment

Policy on Non-Fraternization

Code of Student Conduct

Responsible

Office/Department:

Office for University Equity and Compliance

Keywords: Sexual Harassment; Sexual Assault; Discrimination; Domestic Violence; Dating Violence; Stalking

I. Purpose and Scope

Northeastern University is committed to providing equal opportunity to its students and employees, and to eliminating discrimination when it occurs. In furtherance of this commitment, Northeastern University strictly prohibits discrimination and harassment on the basis of race, color, religion, religious creed, genetic information, sex, gender identity, sexual orientation, age, national origin, ancestry, veteran, or disability status.

This Policy articulates how the university will respond to reports of discrimination on the basis of sex (as defined below as Prohibited Offenses), in compliance with Title IX of the Education Amendments of 1972 ("Title IX"), as well as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), and the Violence Against Women Reauthorization Act ("VAWA") of 2013 as defined below. This policy provides a consolidated statement of the rights and responsibilities of university community members under this policy and describes how individuals may report allegations of Prohibited Offenses to the university; how the university will coordinate the prompt and equitable investigation of allegations of Prohibited Offenses; how the university will identify the roles of and deliver the rights and responsibilities of individuals involved in the investigative process; how the university will provide supportive measures and remedies, resolution process, and relevant disciplinary actions; and how the university will train the campus community about this Policy.

A. Jurisdiction

This Policy applies to all members of the university community, including students, employees, faculty, staff members, volunteers, and guests in connection with university activities. It only applies to allegations of Prohibited Offenses against students, faculty, or staff members in the United States:

- a. that occur in the context of a university education program or activity, including but not limited to research, and the admission and employment processes, university cocurricular, athletic, or other university programs;
 - i. this includes locations, events, or circumstances over which the university exercises substantial control over both the respondent and the context in which the Prohibited Conduct occurs; or
- b. that occur in any building owned or controlled by a student organization that is officially recognized by the university¹.

This Policy does not apply to conduct alleged by Third Party complainants against university community members.

The university has jurisdiction to investigate and adjudicate alleged misconduct by the Respondent when the Respondent is a student or when the respondent is eligible to return as a student.

Reports of discrimination based on a Protected Category (race, color, religion, religious creed, genetic information, sex (including pregnancy or pregnancy related condition), gender, gender identity, sexual orientation, age, national origin, ancestry, veteran or disability status) are addressed by the university's Policy on Equal Opportunity. Reports of allegations of Sexual Assault, Sexual Harassment, Domestic Violence, Intimate Partner Violence, Dating Violence, Stalking and Retaliation that occur outside the jurisdiction of this policy, including those allegedly occurring within the context of a university education program or activity or outside of the United States, are addressed by the University's Policy Prohibiting Sexual and Gender-Based Harassment. All reports of alleged discrimination can be reported to the Office for University Equity and Compliance ("OUEC") at <https://www.northeastern.edu/ouec/file-a-complaint/>.

- OUEC is the office responsible for reviewing and investigating allegations of Title IX Prohibited Offenses at Northeastern.

¹ This does not include buildings owned or controlled by individual members of a recognized student organization or off-campus buildings used, but not owned or controlled, by a recognized student organization.

No other university individual, office, group, club, organization or community may investigate allegations of discrimination based on sex, gender or gender identity unless authorized by OUEC.

In the event of any conflict or inconsistency between this Policy and other university policies or procedures that may relate to the subject matter hereof, the university will determine which policy takes precedence.

II. Definitions

For purposes of this Policy:

A. Prohibited Offenses

Prohibited Offenses are the conduct prohibited by this Policy and includes Sexual Harassment, Sexual Assault, Domestic Violence, Intimate Partner Violence, Dating Violence, Stalking and Retaliation.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee or other community member of the university conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (Quid pro quo sexual harassment);
2. Unwelcome conduct determined by a reasonable person standard to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity.

In evaluating whether the unwelcome conduct is so severe, pervasive, and objectively offensive that it effectively denies a person equal access, the University uses a reasonable person standard that takes into account the totality of known circumstances in a particular situation, including but not limited to:

- The frequency, nature, and severity of the conduct;
- The age, disability status, and other characteristics of the parties;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant's mental or emotional state; and
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities.

The term “effectively denies” does not require a Complainant to be entirely, physically excluded from educational opportunities and may also be established when the conduct so undermines and detracts from the student’s educational experience that access is effectively denied.

3. Or one of the following Prohibited Offenses:

- **Sexual Assault** is any sexual act directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent. This includes the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without consent. This also includes touching the private body parts of another person for the purpose of sexual gratification, without consent.

Sexual assault includes:

- i. Rape: The carnal knowledge of a person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- ii. Sodomy – Oral or anal sexual intercourse with another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- iii. 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 Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- iv. Fondling: The touching of the private body parts, such as breasts, buttocks, groin, genitals, or the clothing covering them, of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

- This also includes forcing or coercing another person to touch themselves or someone else with or on someone's breasts, buttocks, groin, genitals, or the clothing covering them.
 - v. Statutory Rape: Unforced sexual intercourse with a person who is under the statutory age of consent in the state where the sexual intercourse took place
- **Dating Violence** means the use, attempted use, or threatened use of physical force against a person or property of another committed by a person:
 1. who is or has been in a relationship of a romantic or intimate nature with the Complainant; and
 2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. The length of the relationship.
 - b. The type of relationship.
 - c. The frequency of interaction between the persons involved in the relationship.
- **Domestic Violence** means the use, attempted use, or threatened use of physical force against a person or property of another:
 - by a current or former spouse or intimate partner of the Complainant,
 - by a person with whom the Complainant shares a child in common,
 - by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner,
 - by a person similarly situated to a spouse of the Complainant under the family violence laws of Massachusetts
- **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

Examples of stalking include, but are not limited to, acts in which a person follows, monitors, observes, surveils, or threatens someone, conducted in person directly, indirectly, or through third parties, or by mail, phone, electronically, or social media.

- **Retaliation** is any intentional or attempted adverse or negative act against a person who in good faith makes a report, serves as a witness, or participates in an investigation or adjudication process regarding an alleged violation of a Prohibited Offense, the Code of Student Conduct, or other university policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Offenses.

B. Other Definitions

Actual knowledge means notice of allegations of a Prohibited Offense to:

- Northeastern's Title IX Coordinator; or
- any official of the University who has authority to institute corrective measures on behalf of Northeastern, including:
 - Any member of the OUEC; and/or
 - Northeastern University Police Department.

This standard is not met when the only official of the university with actual knowledge is the Respondent.

Advisor refers to an individual chosen by a Complainant or Respondent to provide support and guidance through the investigatory and disciplinary processes of this Policy, including at interviews, meetings and hearings. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The Advisor role is addressed further in Section III (N) of this Policy.

An **Administrative Hearing** is the adjudication process for cases where employees are the Respondent in an investigation under this Policy. The hearing is conducted by a single administrator of a trained pool of University employees and, at the discretion of the Title IX Coordinator, external professionals, trained to adjudicate allegations of Prohibited Offenses. If a potential violation is referred by the Title IX Coordinator to an Administrative Hearing, the Hearing Officer will review the Investigative Report and facilitate the hearing to affirm whether the Investigator's recommended findings are supported by a preponderance of the evidence of Policy violations and, if applicable, determine any appropriate sanction(s).

Allegation is a concern reported to the university that a Prohibited Offense has been committed.

Case Manager refers to the university employee responsible for facilitating access to resources and supportive measures, as listed in Section III(O) of this Policy, for student Complainants and student Respondents.

Charged Student means any student charged by the university with a violation of a university Policy. This designation takes place at the conclusion of an investigation if the Title IX Coordinator determines that the Investigative Report contains information that constitutes an allegation of a Prohibited Offenses by a Respondent. The Director of OSCCR or designee will notify the party of charges during a pre-hearing meeting.

The **Clery Act** is a federal law that governs the publication of the Campus Security Policy, the reporting of campus crime statistics, and certain aspects of the university's response to, and investigation of, Prohibited Offenses.

Coercion means the use of an unreasonable amount of pressure to initiate or continue sexual activity against an individual's will. Coercion is more than an effort to gain consent, or persuade, entice, or attract another person to engage in sexual activity. Coercion is addressed further in Section III(R)(iii) of this Policy.

Complainant means an individual who is alleged to be the victim of conduct that could constitute a Prohibited Offense that is reported to the university. The rights and obligations under this policy of Complainants who are employees differ from those of students and are separately addressed in Section III(Q) of this Policy.

Confidential Employee refers to university employees who are bound by their profession to confidentiality and, therefore, are not required to disclose information about Prohibited Offenses to the Title IX Coordinator without prior consent of the Reporting Party. Additional information about Confidential Employees can be found in Section III(C) of this Policy.

Consent means a voluntary, affirmative agreement to engage in sexual activity proposed by another; it requires mutually understandable and communicated words and/or actions that would demonstrate to a reasonable person agreement by both parties to participate in sexual activity. Consent is addressed further in Section III(R)(i).

Emergency Removal is the process for removing a student Respondent from the university's education program or activity or an employee Respondent from their employment, on an emergency basis. The university will conduct an individualized safety and risk analysis, and if it is determined that there exists an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Offense, the Respondent may be removed. When Respondents are removed through this process, the university will provide the Respondent with notice and an opportunity to challenge the decision within three business days of removal, absent extenuating circumstances.

This provision does not prohibit the University from placing employees on administrative leave pending the outcome of any investigative process, as deemed appropriate by the university.

The procedures for an Emergency Removal are detailed in [Appendix D](#).

Employees are Northeastern University faculty and staff members, for the purpose of this Policy.

Incapacitation means a state where someone cannot make a rational, reasonable decision because they lack the ability to understand the who, what, when, where, why, or how of their sexual activities. Incapacitation is addressed further in Section III(R)(ii).

Intercourse means vaginal or anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact. Vaginal penetration occurs, when the penis, other body part, or object touches the vulva or the labia majora, which is the outermost part of the female genital organ.

Investigative Report means the written document produced by the OUEC after completion of the university's investigation into a report of an alleged Prohibited Offense. The Investigative Report may reference or rely upon facts gathered by prior investigators, including but not limited to the Northeastern University Police Department, local law enforcement or external investigators. The Investigative Report will outline the investigator's findings of fact and recommend findings regarding violations of university policy, as applicable.

Privacy means that information related to a report of a Prohibited Offense will be shared with limited University employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report.

The privacy of Student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”). The privacy of an individual’s medical and related records generally is protected by the Health Insurance Portability and Accountability Act (“HIPAA”).

Respondent means the individual who has been reported to be the perpetrator of a Prohibited Offense. The rights and obligations of employee respondents differ from those of student Respondents and are separately addressed in Section III(P) of this Policy.

Restorative Conferences is an option through the Informal Resolution Procedure where students who take responsibility for engaging in behavior prohibited by this Policy that caused harm are offered the opportunity to come together with the party asserting harm, community members, and facilitators to explore ways that the harm can be redressed. This process is voluntary for all parties.

Supportive Measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment. Supportive Measures are addressed further in Section III.

Third Party refers to any individual who is not a Northeastern University student, faculty member, or staff member (e.g., vendors, alumni, students at another college or university or local residents).

Title IX is a federal law that prohibits discrimination based on sex in educational institutions that receive federal financial aid.

Title IX Board consists of three members, including one student, of a trained pool of the university community and, at the discretion of the Title IX Coordinator, external professionals, trained to adjudicate allegations of Prohibited Offenses where a student is the Respondent. If a potential violation is referred by the Title IX Coordinator to

OSCCR, OSCCR will convene a Title IX Board which will review the Investigative Report and facilitate a live Title IX hearing to affirm whether the Investigator's recommended findings are supported by a preponderance of the evidence of Policy violations and, if applicable, determine any appropriate sanction(s).

Title IX Coordinator refers to the institutional lead designated and authorized to coordinate the university's Title IX initiatives, compliance with Title IX, responses to reports of Prohibited Offenses, including notification, investigation and disposition of complaints, development and delivery of training and education related to sexual violence, and the assessment of the university's effectiveness in responding to and remedying the effects of Prohibited Offenses. The Title IX Coordinator resides in the OUEC.

Title IX Coordinating Committee promotes a coordinated response to reported incidents of Prohibited Offenses. Accordingly, the Committee serves in an advisory capacity to the Title IX Coordinator with respect to the university's Title IX compliance efforts. Chaired by the Title IX Coordinator, the Committee consists of representatives from Student Affairs, Northeastern University Police Departments, Office of the General Counsel, and Office of Risk Services.

Title IX Reporter refers to any university community member (excluding Confidential Employees), including faculty,^[1] staff and student workers who assume roles which other students may reasonably believe obligate that student worker to report allegations of a Prohibited Offense. This includes but is not limited to Resident Assistants in Residential Life, Graduate Research Assistants or Teaching Assistants. Title IX Reporters are required to immediately report allegations of Prohibited Offenses to the Title IX Coordinator.

III. Policy

The university strictly prohibits and will take prompt and equitable action to prevent, detect and deter Prohibited Offenses, investigate and resolve any reported Prohibited Offenses, avoid their recurrence, and remedy their effects.

A. Reporting Obligations for Allegations of Prohibited Offenses

Any person who becomes aware of an alleged Prohibited Offense is strongly encouraged to report such information to the university as provided below.

University employees, except Confidential Employees, are Title IX Reporters and are obligated to report allegations of Prohibited Offenses immediately to the Title IX Coordinator. However, the university offers options for Complainants, Respondents or other non-Title IX Reporters to make confidential reports to Confidential Resources, which will not be forwarded to the OUEC for investigation or adjudication. Confidential Employees are discussed further in Section III(C).

Any Title IX Reporter who is found to have knowingly failed to make a report to the Title IX Coordinator regarding an allegation of a Prohibited Offense, is in violation of this Policy and may be subject to disciplinary action.

B. Timeframe for Reporting Allegations by non-Title IX Reporters

While there is no time limit to report a Prohibited Offense for those who are not designated as Title IX Reporters, the university's ability to respond and investigate may be impacted by the passage of time. Therefore, Complainants and anyone with knowledge of a Prohibited Offense are strongly encouraged to report such information to the OUEC as soon as possible after the occurrence of the alleged Prohibited Offense in order to facilitate an effective response. The longer a report is delayed, the more difficult it may be for the university to investigate. Prompt reporting is essential to preserving physical evidence and documenting fresh recollections of events. Additionally, as time passes, the university may no longer have jurisdiction over Respondents or material witnesses and may be unable to compel their participation or take disciplinary action. In these cases, the university will assist a Complainant to identify and access external reporting options, if applicable, and will provide support and resources. Further, at the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the university with which the formal complaint is filed.

C. Confidential Resources

The university offers confidential resources for medical treatment, emotional support and counseling through Confidential Employees. Confidential Employees are not required to disclose information about Prohibited Offenses to the Title IX Coordinator without prior consent of the student. Confidential Resources on campus include:

- University Health and Counseling Services (UHCS) staff
- Sexual Violence Resource Center (SVRC)

- The Office of Prevention and Education at Northeastern
- Confidential Resource Advisors
- Center for Spirituality, Dialogue, and Service (CSDS) spiritual advisors/leaders

For a complete list of confidential resources, please go to:

<https://www.northeastern.edu/ouec/file-a-complaint/>

D. Reporting Options

The university strongly encourages any person to report information relating to an alleged Prohibited Offense in any of the following ways:

Reporting to the Title IX Coordinator: The university's preferred mechanism to report Prohibited Offenses to the Title IX Coordinator is by completing the form available at <https://www.northeastern.edu/ouec/file-a-complaint/>. Reports can also be made in person at OUEC, by mail, by telephone or by electronic mail as listed in Section V(A). The Complainant may request anonymity as noted below in Section III(H).

Reporting to Law Enforcement: Community members impacted by Prohibited Offenses are strongly encouraged, but not required, to report any allegations of Prohibited Offenses directly to Northeastern University Police Department ("NUPD") as soon as possible, regardless of where the offense took place and whether or not the Respondent is known to the Complainant. As Title IX Reporters, NUPD officers will report Prohibited Offenses to the Title IX Coordinator.

Title IX investigations by OUEC and criminal investigations by law enforcement, including NUPD, may proceed simultaneously as noted below in Section III (E). Reporting a Prohibited Offense to NUPD or other local law enforcement does not commit the Complainant to future legal action.

E. University and Law Enforcement Investigations

The OUEC will conduct a Title IX investigation into allegations of Prohibited Offenses when the Respondent is a Northeastern student, faculty or staff member and a Formal Complaint is filed with the Title IX Coordinator.

The Title IX Coordinator will assign one or more Title IX investigators trained in investigating complaints of sex discrimination. The investigator(s) may be internal (e.g.

investigators in the OUEC, and/or investigators in the Northeastern University Police Department and/or external investigator(s) selected in the university's sole discretion.

Title IX investigations and any subsequent adjudicatory proceedings under this Policy may be carried out prior to, simultaneously with, or following legal proceedings, whether civil or criminal. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this Policy occurred. At the request of either NUPD or another law enforcement agency, the Title IX Coordinator may delay the Title IX investigation into an alleged Prohibited Offense for a reasonable period of time during the initial stages of a criminal investigation. Title IX investigations will commence after law enforcement notifies the Title IX Coordinator that it has completed the initial criminal investigatory stages.

Information gathered by NUPD or other law enforcement during a criminal investigation may become part of the Title IX investigation when provided to the Title IX investigator. While a Title IX investigation may be delayed during the preliminary stages of a criminal investigation, the Title IX investigator will make efforts, in collaboration with NUPD, to obtain information gathered by law enforcement and include it in the Investigative Report.

F. Formal Complaints

A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging a Prohibited Offense against a Respondent and requesting that the university investigate the allegation. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the university with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator using the methods as identified in Section III(C) of this policy. The Formal Complaint must have the Complainant's physical or digital signature, or otherwise indicate that the Complainant is the person filing the Formal Complaint.

If a Complainant chooses not to file a Formal Complaint against a Respondent, the Title IX Coordinator will refer the matter to the Title IX Coordinating Committee for assessment. The Committee will review the facts gathered during the investigation to determine if an investigation is required in order to address a potential hostile environment in a university education program or to protect the safety of the university

community. In making this determination, the Title IX Coordinating Committee will review the Investigative Report for any of the following facts:

- the Respondent has a prior record of committing Prohibited Offenses;
- the Respondent displayed any signs of predatory behavior;
- violence or any weapons were used by the Respondent;
- other individuals were involved in the commission of the Prohibited Offense;
- the Respondent presents a continuing threat to the university community; and/or
- a hostile environment may exist in a university education program as a result of the alleged Prohibited Offense.

If the initial report contains any of the above facts or allegations, the Title IX Coordinator may sign a Formal Complaint. The Title IX Coordinator will notify the Complainant if a determination is made to proceed with an investigation and explain the Complainant's right to participate or not participate in the investigation or in any other actions undertaken by the university.

When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party of the investigation.

If the conduct alleged in the Formal Complaint (1) would not constitute a Prohibited Offense as defined in this Policy, even if proved, (2) did not occur in the recipient's education program or activity, or (3) did not occur against a person in the United States, then the University must dismiss the Formal Complaint with regard to that conduct under this Policy. Such a dismissal does not preclude action by the University under another university policy.

- In cases where the Complainant was participating in or attempting to participate in an education program or activity of the university at the time of the incident and during the University resolution process, but left the University prior to the hearing process, the Complainant may choose to participate fully as a student Complainant would.

G. OUEC's Response to Reports of Prohibited Offenses

As soon as is practicable, an Investigator from the OUEC will contact the Complainant identified in the report to schedule an initial meeting to:

- Refer them to this Policy at OUEC's website.
- Review the Complainant's Notice of Rights, Remedies and Responsibilities Regarding Reports for Title IX Form to explain avenues for resolution, including:

- The steps involved in both the Informal and Formal Resolution Procedures under this Policy;
 - Discuss confidentiality of university investigations;
 - Determine whether the Complainant wants to pursue a resolution through the university;
 - Refer to law enforcement, counseling, medical, academic, or other resources, as appropriate;
 - Discuss, as appropriate, possible supportive, remedial and protective measures that can be provided during the pendency of the investigative and adjudication processes.
- If the Complainant agrees to disclose information regarding the allegation, including the identity of the Respondent, the date, location, if known, and the general nature of the alleged violation of policy and agrees to file a Formal Complaint, the Complainant will complete their Rights Form accordingly and sign the document.

H. Requests for Anonymity

Per the university's obligations under Title IX, if a Complainant pursues a Formal Complaint, Respondents will receive a Notice of Investigation which includes the identity of the Complainant, if known.

- A Complainant can make a report to the OUEC without giving their name by using a reporting form on the [OUEC website](#).
- A student who is not a Title IX Reporter who is reporting a Prohibited Offense that happened to someone else is not required to disclose the name of the Complainant.
- Complainants may contact a Confidential Resource, as identified in this Policy, who are not required to file a report with the Title IX Coordinator.

However, if a Complainant self-identifies to the OUEC, and the Complainant requests to remain anonymous after filing a Formal Complaint, the Title IX Coordinator will not be able to honor the request for anonymity while pursuing a Resolution Option under this Policy. The university has to balance the request in the context of the university's responsibility to provide a safe and non-discriminatory environment for university

community members, as well as the fair and equitable treatment of the individuals involved. This includes the Respondent's right to receive notice of allegations, including the identity of the Complainant, if known to the OUEC, if the university were to initiate a Resolution Process or take any action that affects the Respondent.

When the university is not be able to honor requests for anonymity, the Title IX Coordinator will notify the Complainant that the university intends to proceed with an investigation, and the possibility that during the investigation, the Complainant's identity may have to be disclosed to individuals who may have relevant information regarding the allegation.

I. Resolution Options

The university recognizes that it is important to take into account the needs of students involved in a Prohibited Offense. In order to provide options for pathways towards a resolution, this Policy offers two forms of resolution for Formal Complaints of Prohibited Offenses:

1. The Informal Resolution Procedure is a voluntary and remedy-driven pathway to a complaint resolution that is acceptable to the Complainant, Respondent, and the OUEC without a full university investigation and without official findings of fact.
2. The Formal Resolution Procedure provides a structured process for investigating and resolving complaints that includes official findings of fact.

The University takes all complaints of discrimination seriously and will take steps to prevent its recurrence and remedy discriminatory effects where appropriate.

i. Informal Resolution Procedure Overview

The Informal Resolution Procedure offers a way to discuss, evaluate and resolve perceived instances of Prohibited Offenses without initiating a comprehensive investigation through the Formal Resolution Procedure. The university does not require a Complainant to utilize the Informal Resolution Procedure prior to pursuing a Formal Resolution Procedure.

In keeping with the nature and spirit of an informal resolution, the university would not make a determination as to whether a Respondent has violated this Policy. Instead, the OUEC attempts to facilitate a mutually acceptable resolution through the use of conflict resolution techniques.

While the OUEC may resolve reports informally and appropriately based on the circumstances, the Informal Resolution Procedure cannot be utilized to resolve allegations where an employee is the Respondent and a student is a Complainant.

Informal resolutions are pursued after a Formal Complaint of an alleged violation of this Policy is filed with the OUEC, the Complainant has been fully informed of all available resolution options, and the Complainant has explicitly communicated their choice to utilize the Informal Resolution Procedure to the OUEC. A Complainant can request the Informal Resolution Procedure any time prior to the university reaching a determination regarding responsibility of a violation of this Policy.

Possible options of an informal resolution may include, but are not limited to:

- Facilitated Dialogue: a structured conversation, facilitated by a third party, between the parties can assist in facilitating an agreed solution
- Restorative Conferences
- Impact statement: a letter written by the Complainant and read by the Respondent

Possible solutions resulting from Informal Resolution may include, but are not limited to:

- a written understanding about future conduct
- establishing mutually agreed upon interim measures,
- broad-based educational programming or training for relevant individuals or groups,

or any other supportive, remedial or protective measures that can be tailored to the involved individuals to stop any unwanted behavior, prevent recurrence of the issues and remedy the effects of the particular complaint. Complainants and Respondents are not required to communicate directly with each other, unless requested and agreed to by all parties, including the OUEC.

An Informal Resolution Procedure is voluntary, and a Complainant and Respondent can withdraw from the informal process at any time before its completion and resume the grievance process with respect to the Formal Resolution Procedure, which will be facilitated by a different investigator than the one who oversaw the Informal Resolution process. If an Informal Resolution Procedure is ended by request of one of the parties, any information obtained may not be used in a subsequent Formal Resolution

Procedure and hearing process. Once a complaint has been resolved through an Informal Resolution Procedure, and both parties have agreed to the terms of the resolution, the matter is closed and the parties are precluded from resuming a Formal Complaint Procedure arising from the same allegations.

The procedures for the Informal Resolution Procedure of reports of Prohibited Offenses are detailed in [Appendix A](#).

ii. Formal Resolution Procedure Overview

A Formal Resolution Procedure will occur when (a) a Formal Complaint of an alleged violation of this Policy is filed with the OUEC and the Complainant seeks a formal resolution; or (b) the Title IX Coordinator determines that a Formal Resolution Process is necessary after considering the safety of the broader campus community. In the situation when there is a serious threat to the University community, but the potential Complainant cannot or does not wish to proceed with the formal process, the Title IX Coordinator, may file a Formal Complaint.

The Formal Resolution Procedure of Formal Complaints of Prohibited Offenses includes a neutral, thorough and reliable investigation by OUEC into the allegations of the complaint in order to reach a determination as to whether the Respondent(s) has violated this Policy. Complainants may initiate the Formal Resolution Procedure by filing a Formal Complaint with OUEC, regardless of whether resolution under the Informal Resolution Procedure has been attempted.

The Respondent is presumed to be not responsible, and this presumption may be overcome only where the Title IX Board (cases where a student is the Respondent) or Administrative Hearing (cases where an employee is the Respondent) concludes that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Policy.

Once the investigation is complete, the investigator(s) will submit the Investigative Report to the Title IX Coordinator for their review.

- If the Title IX Coordinator determines that the Investigative Report contains sufficient information to constitute a potential violation of this Policy for a student Respondent, the case will be referred by the Title IX Coordinator to the Director of OSCCR, who will facilitate a live Title IX Hearing.

- If the Title IX Coordinator determines that the Investigative Report contains sufficient information to constitute a potential violation of this Policy for an employee Respondent, the case will be referred by the Title IX Coordinator to an Administrative Hearing.

The hearing process is an opportunity for the parties to address relevant issues to the determination of responsibility to be made by the Title IX Board / Administrative Hearing. A Hearing may be conducted with all parties physically present in the same geographic location or, at the discretion of the Director of OSCCR or Title IX Coordinator, any or all parties, witnesses, or other participants may appear at the Hearing virtually, with technology enabling participants simultaneously to see and hear each other. Both the student and employee hearings utilize cross-examinations by the party's advisor, and a preponderance of the evidence standard, as part of the process to determine whether to:

- i. affirm the recommended findings of Policy violations contained in the Investigative Report; or
- ii. make alternative findings of Policy violations than those contained in the Investigative Report.

OUEC responds to complaints in accordance with the procedures outlined in [Appendix B \(student Respondents\)](#) and [C \(employee Respondents\)](#). However, there may be circumstances that support a departure from these procedures, and, should such circumstances arise, OUEC will advise the parties.

J. Timeframe for Completion of Resolution Procedures

Both Informal and Formal Resolution Procedures will be completed in a reasonably prompt and equitable manner. The goal is to have Informal and Formal Resolution Procedures completed in approximately 90 days after a Formal Complaint is made. However, the specific circumstances (e.g., availability and cooperation of parties and witnesses, etc.) and complexity of each case could lead to investigations taking longer.

Any time frame set forth in this Policy may be extended for good cause, which may exist if additional time is necessary: to support the integrity and completeness of a resolution procedure; to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation; to accommodate the availability of witnesses or an advisor, within reason; to account for university and semester breaks; to account for complexities of a case, including the number of witnesses and volume of information provided by the parties; or for other legitimate

reasons. The Investigator will notify the parties in writing of any extension of this timeframe and the reason for such extension.

K. Truthfulness; Participation in the Investigatory and Adjudication Processes.

Complainants and Respondents have the right, and are strongly encouraged, to meet with an OUEC investigator to provide relevant information and identify relevant witnesses.

Complainants, Respondents and Witnesses are required to be truthful in any report or proceeding under this policy, to cooperate with the university in its investigation of Prohibited Offenses and to follow the directions of university staff and administrators. Submitting or providing false or misleading information in bad faith in connection with an allegation of Prohibited Offense is subject to disciplinary sanctions in accordance with applicable university policies. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

Notwithstanding this requirement, Complainants and Respondents may choose to participate or not in the investigation, hearing and adjudication, if applicable, of alleged Prohibited Offenses. Those that choose not to participate in a Title IX investigation willingly forego their opportunity to present information and witnesses to be included in the Investigative Report, upon which potential further proceedings will be based.

While the university reserves the right to proceed with investigation, hearing, adjudication and any resulting disciplinary action in the absence of either party, the Board/Administrator cannot draw any inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to submit to cross-examination or to answer cross-examination or other questions.

L. Medical Amnesty

The university seeks to remove any barriers to reporting allegations of Prohibited Offenses. Accordingly, Respondents, Complainants and student witnesses will not be subject to disciplinary sanctions for drug or alcohol offenses that may have occurred in connection with an alleged Prohibited Offense. For the full Medical Amnesty Policy, please see the Code of Student Conduct.

M. Medical and Counseling Records

Medical and counseling records of a Complainant and Respondent are privileged records that individuals are not required to disclose. However, if a party believes these records may contain relevant and material information, a party may voluntarily choose to share such records with the Investigator only after waiving the privilege in writing. Any records provided by a party becomes part of the investigative record and are available for review by the other party.

N. Advisors

The Complainant, Respondent and Witnesses may be accompanied by their respective Advisors at any meeting or interview related to the investigation and adjudication of a report under this Policy. While Advisors may provide support and advice to the parties during the meeting or interview, they may not speak on behalf of the parties or otherwise actively participate in such meetings and/or proceedings, except as permitted in the cross-examination portion of a live hearing.

If a party does not have an Advisor present at the live hearing, the university will provide an Advisor of the university's choice, without fee or charge to that party, in order to conduct cross-examination on behalf of that party.

An Advisor may not delay or otherwise interfere with or disrupt the investigatory and adjudication process under this policy. Because the university's process is not the same as a formal, external legal process, the Advisor, although they may be an attorney, does not represent the party in a legal capacity in the university's process. Absent accommodation for a disability, the Complainant and Respondent may not be accompanied by more than one Advisor or by other individuals during meetings or interviews.

Throughout the investigation and adjudication process of a report under this Policy, all official university communications (both verbal and written) will be between the university and the parties directly. The two exceptions to this will be (1) at the conclusion of the investigative process when the investigator(s) share a draft summary of the facts gathered during the investigation with the Complainant, Respondent and their Advisors for their review and response and (2) during the pre-hearing meeting where they review the Investigative Report that forms the basis of the complaint. The university will not communicate with an Advisor on behalf of a party.

For students, Advisors in the adjudication process are bound by the conditions established for Advisors within the [Code of Student Conduct](#).

O. Supportive, Remedial and Protective Measures

The university offers reasonable and appropriate measures to protect community members who are Complainants, Respondents, and witnesses, as appropriate, and to facilitate their continued access to university education programs and activities for students and work environment for employees, while maintaining the integrity of any investigation into an allegation of a Prohibited Offense. Upon receipt of a report of a Prohibited Offense, the university will inform the Complainant(s) and Respondent(s) of, and promptly provide access to, the following supportive, remedial and protective measures as appropriate:

- options for on- and/or off-campus medical, counseling, and other related services, including access to a Sexual Assault Nurse Examiner;
- options for temporary alternate housing arrangements, including immediate relocation to different university housing (students only);
- options for requesting a residential hall ban (students only);
- options for altering academic class schedules/obligations (students only);
- options for a leave of absence, if qualifications are met;
- options for altering student organization schedules/obligations;
- options for altering work schedule or job assignment;
- emergency removal from the university's educational program for student respondents and administrative leave from employment for employee respondents (with or without pay);
- options for alternative transportation as well as a campus escort service;
- options for seeking assistance from local law enforcement, including increased security and monitoring of certain areas of campus when possible and as deemed appropriate by the Title IX Coordinator;

- options for seeking disciplinary action against a Respondent who is a Northeastern community member;
- options for receiving a university No Contact Order; and
- options for seeking a Judicial Harassment Protection Order or a Restraining Order.

The above supportive, remedial and protective measures may be temporary or permanent and are available to Complainants even if they do not wish to participate in a Title IX or criminal investigation of the alleged Prohibited Offense. Except under extraordinary circumstances as determined by the Title IX Coordinator, the university does not provide protective and remedial measures to Third Parties.

P. Overview of Procedures and Sanctions based on Status of Respondent

i. Initial Meeting with Respondent

If the Complainant wishes to file a Formal Complaint and pursue a resolution option through the university, or if the Title IX Coordinator deems that a further investigation is warranted, as soon as is reasonably practicable after the OUEC's initial meeting with the Complainant, the Investigator will send a Notice of Investigation to the Respondent via their university email account and schedule an initial meeting with the Respondent. During the initial meeting with the Respondent, the Investigator will:

- Review the information in the Notice of Investigation, consistent with privacy laws, to allow Respondent to address the allegation (e.g., the name of the Complainant, the date, location, nature of the alleged violation of policy, etc.).
- Remind them of their right to be accompanied by an Advisor at any meeting or interview related to the investigation and adjudication of a report under this Policy.
- Refer them to this Policy at OUEC's website.
- Review the Complainant's Notice of Rights, Remedies and Responsibilities Regarding Reports for Title IX Form to explain avenues for resolution, including:
 - The steps involved in the Informal or Formal Resolution Procedures as requested by the Complainant;
 - Discuss confidentiality of university investigations;

- Discuss, as appropriate, available supportive, remedial and protective measures that can be provided during the pendency of the investigative and adjudication processes and any being provided to the Complainant that would directly affect the Respondent.
- Discuss non-retaliation requirements;
- Refer to law enforcement, counseling, medical, academic, or other resources, as appropriate.

ii. Allegations Where the Respondent is a Student

The procedures for responding to, investigating and adjudicating reports of Prohibited Offenses involving students are detailed in [Appendix B](#). A student found responsible for a Prohibited Offense will be subject to disciplinary action up to and including expulsion from the university. The range of possible disciplinary sanctions for student violations of this Policy will be imposed in accordance with the [Code of Student Conduct](#).

Where there is a finding of responsibility of a violation of this Policy, the Title IX Board may impose one or more sanctions. Sanctions may include any of the sanctions that are available for violations of the university’s Code of Student Conduct, including but not limited to expulsion, suspension, deferred suspension, disciplinary probation, letter of warning, cancellation of the Residence Hall and Dining License Agreement, counseling evaluation, and other sanctions or restrictions deemed appropriate by the university to address the alleged conduct.

In determining the appropriate sanction(s), the Title IX Board will be guided by a number of considerations, including:

- The severity, persistence or pervasiveness of the Prohibited Offense;
- The nature or violence (if applicable) of the Prohibited Offense;
- The impact of the Prohibited Offense on the Complainant;
- The impact or implications of the Prohibited Offense within the university community;
- Prior misconduct by the Respondent, including the Respondent’s relevant prior disciplinary history, at the university or elsewhere, and any criminal convictions;
- Whether the Respondent has accepted responsibility for the Prohibited Offense;

- The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
- Any other mitigating, aggravating, or compelling factors.

iii. Allegations Where the Respondent is an Employee

The procedures for responding to, investigating and adjudicating reports of Prohibited Offenses by Northeastern employees are detailed in [Appendix C](#).

Any dispute regarding the applicable procedures for adjudication (e.g. where a Respondent is both an employee and student) will be resolved in the sole discretion of the Title IX Coordinator.

An employee found responsible for a Prohibited Offense will be subject to disciplinary action in accordance with applicable university policies, ranging from a warning or disciplinary action up to and including permanent separation from the university. Other potential sanctions may include employment probation, restrictions, attendance in an educational program, or referral to treatment.

iv. Allegations Where the Respondent is Both a Student and an Employee

If there is a question as to the predominant role of the Respondent, the Title IX Coordinator will determine which of the procedures applies based on the facts and circumstances, including which role predominates in the context of the Prohibited Offense. Further, where a Respondent is both an employee and student, they may be subject to any of the sanctions applicable to students and employees.

v. Allegations Where the Respondent is a Third Party

The university's ability to take appropriate corrective action against a Third Party will be determined by the nature of the relationship of the Third Party to the university. The Title IX Coordinator will determine the appropriate manner of resolution consistent with federal law, guidance, and this Policy.

When a Third Party is a respondent, NUPD or local enforcement may investigate the allegations. The university will assist the Complainant in making a report to the appropriate law enforcement agency with jurisdiction over the incident, and will

provide appropriate supportive, remedial and protective measures as well as ongoing assistance to the Complainant to facilitate their participation in the criminal process.

Q. Standard of Review

The university utilizes a “preponderance of the evidence” (more likely than not that a policy violation occurred) standard in the adjudication of Prohibited Offenses. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the university.

R. Consent, Incapacitation and Coercion

i. Consent

Sexual activity requires Consent from all involved parties. Consent must be freely given, without physical force, threats, intimidating behavior, duress, or coercion. Silence, a lack of resistance, previous sexual relationships or experiences and/or a current relationship may not, in itself, constitute Consent. The initiator, or the person who wants to engage in the specific sexual activity, must obtain Consent from the partner(s) for each sexual act. Each participant may be an initiator at different points of sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

A person’s initiation of a sexual act constitutes Consent to that act, but not necessarily to subsequent acts. Consent to sexual activity may be withdrawn at any time and the withdrawal must be communicated in mutually understandable words and/or actions; if so, sexual activity must cease immediately. Consent may never be given by minors (in Massachusetts, minors for these purposes are those not yet 16 years of age), or those who are unable to understand the who, what, when, where, why, or how of their sexual activities as a result of incapacitation due to a cognitive disability, intoxication by alcohol or other drug consumption (voluntary or involuntary), or those who are unconscious, or otherwise physically helpless.

Engaging in sexual activity while under the influence of alcohol or drugs may create ambiguity for either party as to whether Consent has been sought or given. A person who has consumed alcohol and/or drugs still has a responsibility to obtain Consent for any sexual activity with another person(s). *Being impaired by alcohol or other drugs is no defense to any violation of this Policy.*

ii. Incapacitation

A person who is incapacitated is unable, temporarily or permanently, to give Consent to sexual activity because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking alcohol or using drugs. The impact of alcohol, medication, and other drugs varies from person to person. Although every individual may manifest signs of incapacitation differently, signs could include, but are not limited to, some or all of the following:

- confusion or lack of understanding;
- disorientation to place, time and/or location;
- vomiting;
- incontinence; and/or
- unconsciousness.

A person who is incapacitated may not be able to understand some, or all, of the following questions:

- “Do you know where you are?”
- “Do you know how you got here?”
- “Do you know what is happening?”
- “Do you know whom you are with?”

For purposes of evaluating Consent, the university considers two questions:

- Did the person initiating sexual activity know that their partner was incapacitated? If not,
- Would a reasonable person in the same situation have known that their partner was incapacitated?

If the answer to either of these questions is “yes,” Consent was absent.

iii. Coercion

A person subject to Coercion is unable to give Consent to sexual activity. In evaluating whether coercion was used, the university will consider: (1) the frequency of the application of the pressure, including severe and/or pervasive intimidation, manipulation, threats, and blackmail, which causes a person to engage in unwelcome sexual activity, (2) the intensity of the pressure, (3) the degree of isolation of the person being pressured, and (4) the duration of the pressure.

S. Options and Rights in the Adjudication Process

Adjudication Processes: Upon completion of a Title IX investigation, an Investigative Report will be forwarded to the Title IX Coordinator. If the Title IX Coordinator determines that the Investigative Report contains information that constitutes an allegation of a Prohibited Offense, the case will be referred by the Title IX Coordinator to the Director of OSCCR for student Respondents, or to a Hearing Administrator for employee Respondents. See the processes described in **Appendix B** (student Respondents) and **Appendix C** (employee Respondents) for more information.

Outcome and Appeals: Upon conclusion of the adjudicatory process, the Complainant and Respondent will receive simultaneous notification in writing of the outcome. This notice will be delivered to the Complainant’s and Respondent’s university email accounts. The Complainant and Respondent have the right to appeal the outcome of any adjudicatory proceedings as noted in **Appendix B** and **Appendix C**.

Request to withdraw the Formal Complaint by the Complainant: If at any time during the course of an investigation or hearing, a Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations therein against an Respondent, the Title IX Coordinator will refer the matter to the Title IX Coordinating Committee for assessment. The Committee will review the facts gathered during the investigation to determine if adjudicatory proceedings are nonetheless required in order to address a potential hostile environment in a university education program or to protect the safety of the university community. In making this determination, the Title IX Coordinating Committee will review the Investigative Report for any of the following facts:

- the Respondent has a prior record of committing Prohibited Offenses;
- the Respondent displayed any signs of predatory behavior;
- violence or any weapons were used by the Respondent;
- other individuals were involved in the commission of the Prohibited Offense;
- the Respondent presents a continuing threat to the university community; and/or
- a hostile environment may exist in a university education program as a result of the alleged Prohibited Offense.

If the Investigative Report contains any of the above facts or allegations, an Investigative Report will be forwarded for adjudication consistent with the status of the Respondent as student or employee. The Title IX Coordinator will notify the Complainant if a determination is made to proceed with an investigation and explain the Complainant's right to participate or not participate in the investigation or in any other actions undertaken by the university.

T. Record Retention

Records created and maintained pursuant to this Policy will be retained for a period of seven years by the OUEC unless destruction or expungement is authorized by the Title IX Coordinator, who may act in accordance with a duly executed and binding settlement of claim, and/or by court order.

Records include:

- (A) An articulation for Emergency Removal process, if any, and the result of any challenge.
- (B) Investigative Reports for an alleged Prohibited Offense that issues a determination regarding responsibility
- (C) Any audio or audiovisual recording or transcript
- (D) Any supportive measures taken
- (E) Any disciplinary sanctions imposed on the respondent
- (F) Any remedies provided to the complainant designed to restore or preserve equal access to the university's education program or activity
- (G) Any appeal and the result
- (H) Any informal resolution and the result
- (I) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an Informal Resolution Procedure.

U. Privacy and Confidentiality of University Records

The privacy of Student education records will be protected in accordance with FERPA. The university is committed to protecting the privacy of all parties involved in any aspect of this Policy and will not share any such information except on a need-to-know basis for the purposes of assessing, investigating and resolving the alleged Prohibited Offense and providing access to interim remedial and protective measures. The university will also share information as required by federal, state, or local law or as required by valid subpoena or court order.

V. Confidentiality of the Investigation

All parties and advisors are required to keep confidential all documents received from the university during the investigatory and adjudication processes and must destroy such documents and information at the direction of the university (except for outcome letters). Disclosing documents outside of the investigation and adjudication processes may be considered Retaliation. However, the university cannot restrict the ability of either party to discuss the allegations under investigation or their participation in procedures under this Policy.

W. Training of Hearing Board Members

Title IX Hearing Board members will receive training that includes the university's responsibilities under university policy, Title IX and the Clery Act. Such trainings shall address, among other things, the impact of trauma on an Complainant's ability to recollect specific facts and events, common examples of predatory behavior associated with Prohibited Offenses, the definition of consent, the impact of alcohol and drugs on consent, and the application of the "preponderance of the evidence" standard.

X. Training and Education for the University Community

Members of the university community are expected to promote an environment free from Prohibited Offenses. Members of the university community are encouraged to take reasonable, safe, and prudent actions to prevent or stop the commission of Prohibited Offenses. Community members who take such actions or who wish to learn more about active bystander prevention are encouraged to access the resources described in this Policy for support and assistance.

The university offers ongoing education to students and employees to promote awareness of Prohibited Offenses. Such education will include definitions of Prohibited

Offenses and consent; best practices for risk reduction, safe and positive bystander intervention; reporting procedures and options; and information concerning rights under Title IX, as described in this Policy.

Y. Review of Trends and Effectiveness

In order to assess the effectiveness of the overall university Title IX training, education, and Prohibited Offense response protocols, the university will annually survey the campus climate, community attitudes, and awareness of its student population regarding sex discrimination prohibited by Title IX. The Title IX Coordinating Committee will review the results of the annual survey and make recommendations intended to enhance the effectiveness of the university's Title IX training and education programs, prevention efforts, investigations and adjudication proceedings.

IV. Additional Information

N/A

V. Contact Information

A. Campus Contact Information

Office for University Equity and Compliance – northeastern.edu/ouec

Richards Hall #125, Boston, MA

617.373.4644 | | ouec@northeastern.edu

Northeastern University Police Department (NUPD) – northeastern.edu/police

716 Columbus Ave, Boston, MA

Emergency: 617.373.3333 | | Non-Emergency: 617.373.2121

Office of Student Conduct and Conflict Resolution (OSCCR) – northeastern.edu/osccr

204 Ell Hall, Boston, MA

617.373.4390 | | osccr@northeastern.edu

University Health and Counseling Services (UHCS) – northeastern.edu/uhcs

Forsyth Building, Suite 135, Boston, MA

617.373.2772 | | uhcs@northeastern.edu

Center for Spirituality, Dialogue, and Service (CSDS) – northeastern.edu/spirituallife

203 Ell Hall, Boston, MA

617.373.2728 || csds@northeastern.edu

LGBTQA Resource Center – northeastern.edu/lgbtqa

328 Curry Student Center, Boston, MA

617.373.2738 || lgbtqa@northeastern.edu

Office for Residential Life – northeastern.edu/reslife

4 Speare Commons, Boston, MA

617.373.2814 || reslife@northeastern.edu

Office of the Senior Vice Chancellor for Student Affairs – northeastern.edu/studentlife

104 Ell Hall, Boston, MA

617.373.4384 || svcstudentaffairs@northeastern.edu

Sexual Violence Resource Center – northeastern.edu/open

106 St. Stephen Street, Boston, MA

open@northeastern.edu

B. Off-Campus Compliance Reporting Agencies

Boston Police Department (BPD) – www.boston.gov/departments/police

1 Schroeder Plaza, Roxbury Crossing, MA

617.343.4500 || bpi.bpd@cityofboston.gov

U.S. Department of Education, Office for Civil Rights (OCR) –

www2.ed.gov/about/offices/list/ocr/index.html

Massachusetts Office:

Boston Office

Office for Civil Rights

US Dept of Education

8th Floor

5 Post Office Square

Boston, MA 02109-3921

Ph: 617.289.0111

Fax: 617.289.0150

TDD: 800.877.8339

Email: OCR.Boston@ed.gov

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

Ph: 800.421.3481
Fax: 202.453.6012
TDD: 800.877.8339
Email: OCR@ed.gov

Massachusetts Commission Against Discrimination (MCAD) – www.mass.gov/mcad

MCAD Boston Headquarters:
1 Ashburton Place, Suite 601, Boston, MA 02108
Ph: 617.994.6000 | | Fax: 617.994.6024 | | TTY: 617.994.6196
Email: assistanttochairman@state.ma.us

Equal Employment Opportunity Commission (EEOC) – www1.eeoc.gov/field/boston/index.cfm

Boston Area Office
John F. Kennedy Federal Building
475 Government Center, Boston, MA 02203
Ph: 1.800.669.4000 | | Fax: 617.565.3196 | | TTY: 1.800.669.6820

[1] Solely for the purposes of the reporting requirements stated in this policy, this definition of Title IX Reporter includes certain student workers who assume roles which other students may reasonably believe obligate that student worker to report allegations of a Prohibited Offense. Those student workers include: Resident Assistants, student-employees in Residential Life, University Health and Counseling Services, New Student Programs, the Northeastern University Police Department, Athletics, the N.U.in Program, a Dialogue of Civilizations program, and an Alternative Spring Break program.

Appendix A - Informal Resolution Procedure

If the Complainant requests that the Informal Resolution Procedure be utilized after filing a Formal Complaint and having been fully informed of all available options, the following steps shall be taken:

1. OUEC shall request to meet with Complainant, if necessary, to determine whether the complaint states a potential violation of this Policy.
 - a. If OUEC determines that the Complainant's allegations, if true, do not constitute a potential violation of this Policy, or that OUEC has no jurisdiction in the matter, OUEC staff will provide appropriate referrals to both on and off-campus resources. If new information is subsequently provided to OUEC, OUEC may reevaluate whether the allegations constitute a potential violation of this Policy and/or whether OUEC has jurisdiction to investigate.
2. If OUEC determines that the Complainant's allegations, if true, constitute a potential violation of this Policy, OUEC will notify the Respondent, in writing, that a complaint has been filed against them and that the Complainant has requested an informal resolution. The Respondent may agree to the informal resolution or request a formal investigation as detail in Appendix B.
 - a. The OUEC will provide the Complainant and the Respondent a summary of the alleged Prohibited Offense, identify potential Policy violation(s), and provide an explanation of the Informal Resolution Procedure, including:
 - i. completion of the Informal Resolution Procedure, documented through a Memorandum of Agreement (MOA), precludes the parties from resuming a Formal Complaint Procedure arising from the same allegations;
 - ii. any time prior to agreeing to an Informal Resolution, any party has the right to withdraw from the Informal Resolution Procedure and resume the grievance process with respect to the Formal Resolution Procedure,
 1. If an Informal Resolution Procedure is ended by request of one of the parties, any information obtained may not be used in a subsequent Formal Resolution Procedure and hearing process;
 - iii. record maintenance of the procedure;

- iv. the requirement for the parties' voluntary, written consent to the Informal Resolution Procedure.
3. If the Respondent agrees to an informal resolution, the OUEC Facilitator(s) will request to meet separately with the Respondent, and the Complainant, if necessary, for an interview.
4. Both the Complainant and the Respondent will have the opportunity to provide their version of events the OUEC Facilitator (s) so they may understand the issues. Please note that this is not a formal investigation.
5. A summary of the informal process shall be kept on file with OUEC but will not be considered part of the academic record for students Complainants and Respondents or the employee record for employee Complainants and Respondents.
 - a. Complaints resolved informally require mutual acceptance by the Complainant, the Respondent(s), and the OUEC through MOA. The MOA (1) must be signed by the Complainant, the Respondent(s), and OUEC, (2) shall state the conditions of the resolution, if any, and (3) shall state that the resolution of the complaint via the MOA does not imply an admission of wrongdoing or a clearance of charges. The MOA shall also state which issues are being resolved by the parties and which issues remain unresolved, if any.
 - b. If an informal resolution is not achieved, the OUEC Facilitator will notify all parties in writing that the informal process has terminated without a resolution.
 - c. If resolution of the Formal Complaint is reached through the Informal Resolution Procedure, the matter will be considered closed.
 - d. If resolution is not reached, if OUEC determines that further process is necessary, or if either party fails to comply with the terms of any agreed resolution, OUEC may initiate the Formal Resolution Procedure.

The university retains the discretion and authority to determine whether the Informal Resolution Procedure is inappropriate or is no longer appropriate. The university will consider, among other things, the following factors in making its decision: the length of time of informal review process, the results of the informal process, the gravity of the alleged offense, the risk of harm to an individual, the risk of a violation of law, or any other reason that necessitates elevation to the Formal Resolution Procedure.

Appendix B – Formal Resolution Procedure

The protocols outlined below describe the steps the university will take to investigate cases involving allegations of Prohibited Offenses detailed in the Policy on Rights and Responsibilities Under Title IX through the Formal Resolution Procedure. In the event of any conflict or inconsistency between the Policy and other policies or procedures that may relate to the subject matter hereof, (e.g. procedures listed in the Code of Student Conduct - www.northeastern.edu/osccr/code-of-student-conduct/) this Policy shall supersede and apply.

Protocols for Allegations of Prohibited Offenses involving a University Student as the Respondent

1. When a Title IX Reporter is notified of an alleged Title IX Prohibited Offense, the Title IX Reporter will notify the Title IX Coordinator (or designee) for review.
2. The Title IX Coordinator will, in collaboration with appropriate university departments, assess the safety and well-being of the parties involved, as well as potential threats to the university community, and will determine the need for any immediate action or interim measures.
3. The Title IX Coordinator will determine whether the complaint states a potential violation of this Policy.
 - a. If the Title IX Coordinator determines that the Complainant’s allegations, if true, do not constitute a potential violation of this Policy, or that OUEC has no jurisdiction in the matter, OUEC staff will provide appropriate referrals to both on and off-campus resources. If new information is subsequently provided to OUEC, OUEC may reevaluate whether the allegations constitute a potential violation of this Policy and/or whether OUEC has jurisdiction to investigate.
 - b. If the Title IX Coordinator determines that the Complainant’s allegations, if true, constitute a potential violation of this Policy, and a Formal Complaint is made, the Title IX Coordinator will initiate a Title IX investigation into the allegations and assign an investigator.
4. Case Managers will be assigned to students who are Complainants or Respondents. Case Managers will serve as the main point of contact for these individuals in order to provide interim measures and resources.
5. Notice of Investigation: Upon initiation of the investigation, the investigator will notify the Complainant and the Respondent of the investigation in writing via their

university email account. The notice will (1) provide a summary of the alleged Prohibited Offense including the date, time and location, if known, (2) identify potential Policy violation(s), (3) provide the identities of the Complainant and Respondent, if known, (4) explain the prohibition against Retaliation (5) provide an explanation of the investigation process as described herein and (6) provide a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the hearing process.

6. During the investigation, the parties will have an equal opportunity to be heard. The investigator(s) will request to meet separately with the Complainant and the Respondent for an interview. Either party may choose to participate or decline to participate in the investigation. The investigator(s) may continue to investigate the alleged Prohibited Offense and produce an Investigative Report based on the available information. Both the Complainant and the Respondent will be asked to provide relevant documentary evidence, including electronic or other records of communications between the parties or witnesses (e.g., photographs, text messages, emails, phone records, messages through social media sites, receipts, etc.) and the names of any and all relevant witnesses with information about the alleged Prohibited Offense. Witnesses cannot participate solely to speak about an individual's character.

a. Parties involved in the investigation may, under limited and extenuating circumstances, request to submit a written statement instead of participating in an interview with the investigator(s). The Title IX Coordinator will determine whether to include in the Investigative Report information provided in a written statement, taking into consideration the relevance of the information and the rights of the Complainant and Respondent to have equal opportunity to present information and witnesses.

b. The investigation may also include the review of any documentation, reports, video or other items the investigator deems relevant to the allegation.

c. The university may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation or hearing, (1) a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed by the university; or (3) specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to

the formal complaint or allegations. Either party may appeal any dismissal decision through the appeal procedures set forth below.

8. The investigator(s), in consultation with the Title IX Coordinator, has the discretion to determine the relevance of any witness or evidence and may exclude irrelevant, immaterial or unduly prejudicial information in preparing the Title IX Investigative Report.

a. An individual's prior or subsequent sexual activity, behavior or predisposition is not relevant and will not be considered, except for one, limited, factual purpose:

- i. Evidence of past sexual experience are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
- ii. The Complainant and the Respondent engaged in consensual sexual activity prior or subsequent to the alleged Prohibited Offense, and
- iii. The prior or subsequent consensual sexual activity is offered for the sole purpose of demonstrating how consent was communicated between the parties during the consensual sexual activity, as compared to the alleged Prohibited Offense. Such information will not be used for any other purpose.

9. The investigator(s) will provide each interviewed party a written interview summary for review via their university email account. The interviewed party will review the summary and, within two (2) business days of receipt, will confirm the summary's accuracy or provide a written response. Failure to respond within two (2) business days will be considered confirmation of the accuracy of the summary. The investigator(s) will review any written response by an interviewed party and will incorporate information into the Investigative Report deemed relevant in the discretion of the investigator(s).

10. At the conclusion of the investigative process, the investigator(s) will share a draft summary of the facts gathered during the investigation with the Complainant, Respondent and their advisors for their review and response. The identities of individuals named in the report may be redacted as deemed necessary in the sole discretion of the investigator. The parties may submit a written response to the investigator(s) within ten (10) business days in order to:

a. clarify information,

- b. provide an additional explanation,
- c. submit additional questions for the investigator(s) to ask of other parties or witnesses, or
- d. identify any other relevant information for the investigator to consider.

11. If a written response includes new and relevant information, the investigator will revise the draft summary of facts accordingly and provide the Complainant and Respondent with opportunities to respond to the new information. Thereafter, the investigator(s) will determine if additional investigation is required. Any further investigation will follow the steps above. If no further investigation is needed, the investigator(s) will finalize the Investigative Report.

12. The investigator(s) will submit the Investigative Report to the Title IX Coordinator for their review. The Title IX Coordinator will review the Investigative Report to assess its thoroughness, reliability and impartiality.

13. If the Title IX Coordinator determines that the Investigative Report contains insufficient information to constitute a potential violation of this Policy, the case will be closed and the decision will be simultaneously communicated to the Complainant and the Respondent by the Title IX Coordinator in writing. There is no appeal of this decision.

14. If the Title IX Coordinator determines that the Investigative Report contains sufficient information to constitute a potential violation of this Policy, the case will be referred by the Title IX Coordinator to the Director of OSCCR (or designee).

- a. In order to protect the privacy of the parties, the Investigative Report forwarded to the Director of OSCCR and reviewed by the Title IX Board will have personally identifiable information replaced with their role in investigation (Complainant, Respondent, Witness 1, etc.). Members of the Title IX Board will not know the names of the parties.

15. Facts established as part of a Prohibited Offense investigation that reveal conduct that may violate the Code of Student Conduct will be investigated by the OUEC and a recommended finding will be made in the Investigative Report.

- a. Title IX rights, including the right to an Advisor throughout the process and Title IX Appeal options (see #21) will apply to these alleged violations of the Code of Student Conduct that stemmed from an investigation of a Prohibited Offense.

b. Facts established as part of a Prohibited Offense investigation that reveal conduct that may violate other university policies, procedures or commonly accepted norms of conduct will be referred to the appropriate office for review.

16. The Director of OSCCR will send a pre-hearing meeting notice to the university email account of the Complainant and the Respondent when they are Northeastern students. The pre-hearing meeting, which will take place at least ten (10) days prior to a hearing, is between the party, their advisor and an OSCCR Hearing Administrator to:

- a. Review the Investigative Report that forms the basis of the complaint;
- b. Explain the charges of the Policy violation filed against the Respondent (from this point on in the process, the Respondent will be referred to as the Charged Student);
- c. Explain the process for resolving the case, including whether the parties accept or contest the recommended findings of the Investigative Report;
- d. Explain that the Director of OSCCR will appoint a three (3) member Title IX Board; and
- e. Review the process how to challenge participation by any member of the Title IX Board for perceived bias or conflict of interest.

17. Complainants and Respondents can accept or contest the recommended findings of the Investigative Report at the pre-hearing meeting. The party's acceptance or contestation of the recommended finding will be noted for the Title IX Board as they review the Investigative Report and hold a Title IX Hearing to determine, using a preponderance of the evidence standard, whether to:

- i. affirm the recommended findings of Policy violations contained in the Investigative Report;
- ii. make alternative findings of Policy violations than those contained in the Investigative Report.

19. The Complainant and the Charged Student will each have the option to present a written or oral statement to the Board. Such statements or the decision to give an oral statement should be provided to the Director of OSCCR at least five (5) business days prior to the Hearing. However, the Title IX Hearing is not a forum for the parties to present facts, information or witnesses. The parties are expected to provide all relevant facts, information and witnesses to the investigator(s) during the investigation. The Title IX Hearing is an opportunity for the parties to present

their arguments as to why the recommended findings of Policy violations in the Investigative Report should or should not be adopted by the Board. Any new information presented at the Title IX Hearing will not be considered by the Board.

Any party or witness scheduled to participate at the Title IX Hearing must have first participated in the investigation process.

20. The Board will permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Board Chair must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The Title IX Board / Administrator may not draw any inference from a decision of a party or witness to not participate at the hearing, including to not submit to cross-examination or make any decisions about a party's credibility based on their decision not to participate in a hearing or submit to cross-examination or answer other questions.

21. Either party may request alternative methods for participating in the Title IX Hearing that do not require physical proximity to the other party, including participating through electronic means that enable the Board and parties to simultaneously see and hear the party or the witness answering questions. This request should be submitted to the Director of OSCCR at least two (2) business days prior to the Hearing.

21. At the conclusion of the Title IX Hearing, the Title IX Board will convene to deliberate and render a decision, by majority vote, regarding whether or not there is a preponderance of the evidence to support the recommended findings in the Investigative Report. No member may abstain. In reaching a determination, the Title IX Board must evaluate all evidence independently and must not give deference to the recommended finding expressed in the Investigation Report.

22. The Director of OSCCR will provide both the Complainant and the Charged Student written notice of the Title IX Board's decision, including a description of the procedural steps taken by the university from the receipt of the Formal

Complaint through Board's finding, the rationale for why a Policy violation was or was not found, and any relevant sanctions. The Director of OSCCR will also explain the appeals process to both parties.

23. The Complainant or the Charged Student may file a written appeal within five (5) business days of the Title IX Board's decision. The written appeal will be provided to the non-appealing party, who may but is not required to provide a response within two (2) business days. OSCCR will appoint a Title IX Appeals Board to review the written appeal to determine whether it meets any of the following grounds for appeal:

(1) new information not reasonably available by the completion of the investigation that could affect the outcome, (2) procedural error that affected the outcome, (3) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter or (4) review of the imposed sanctions based on extraordinary circumstances.

24. If an appeal is granted on the basis of new information, the original Title IX Board will reconvene to determine if the new information alters their original decision. The Director of OSCCR will notify the parties of the Board's decision.

25. If an appeal is granted for procedural error, the process will reset to the point at which the procedural error occurred and proceed from that point.

26. If an appeal is granted based on a review of imposed sanctions, the Director of OSCCR will notify the parties of the decision.

27. If an appeal is granted based on bias from the Title IX Coordinator, Investigator or Chair the Senior Vice Chancellor for Student Affairs or designee will replace the individual and reset the process to the point at which the alleged bias occurred and proceed from that point.

28. The Senior Vice Chancellor of Student Affairs reserves the right to review and revise final outcomes in Title IX cases, including if Title IX Coordinator closes a case at Step 13 of this process, as well as any decision by a Title IX Board or Title IX Appeals Board. Any such revision is not subject to appeal.

Appendix C

Protocols for Allegations of Prohibited Conduct involving Northeastern Employees as the Respondent

1. When a Title IX Reporter is notified of an alleged Title IX Prohibited Offense, the Title IX Reporter will notify the Title IX Coordinator (or designee) for review.
2. The Title IX Coordinator will, in collaboration with appropriate university departments, assess the safety and well-being of the parties involved, as well as potential threats to the university community, and will determine the need for any immediate action or interim measures.
3. The Title IX Coordinator will determine whether the complaint states a potential violation of the Policies.
 - a. If the Title IX Coordinator determines that the Complainant's allegations, if true, do not constitute a potential violation of this Policy, or that OUEC has no jurisdiction in the matter, OUEC staff will provide appropriate referrals to both on and off-campus resources. If new information is subsequently provided to OUEC, OUEC may reevaluate whether the allegations constitute a potential violation of this Policy and/or whether OUEC has jurisdiction to investigate.
 - b. If the Title IX Coordinator determines that the Complainant's allegations, if true, constitute a potential violation of this Policy, the Title IX Coordinator will initiate a Title IX investigation into the allegations and assign an investigator.
4. Case Managers will be assigned to students who are Complainants or Respondent. Case Managers will serve as the main point of contact for these individuals in order to provide interim measures and resources.
5. Notice of Investigation: Upon initiation of the investigation, the investigator will notify the Complainant and the Respondent of the investigation in writing via their university email account. The notice will (1) provide a summary of the alleged Prohibited Offense including the date, time and location, if known, (2) identify potential Policy violation(s), (3) provide the identities of the Complainant and Respondent, if known, (4) explain the prohibition against Retaliation (5) provide an explanation of the investigation process as described herein and (6) provide a statement that the Respondent is presumed not responsible

for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the hearing process.

6. During the investigation, the parties will have an equal opportunity to be heard. The investigator(s) will request to meet separately with the Complainant and the Respondent for an interview. Either party may choose to participate or decline to participate in the investigation. The investigator(s) may continue to investigate the alleged Prohibited Offense and produce an Investigative Report based on the available information. Both the Complainant and the Respondent will be asked to provide relevant documentary evidence (e.g., photographs, text messages, emails, phone records, receipts, etc.) and the names of any and all relevant witnesses with information about the alleged Prohibited Offense. Witnesses cannot participate solely to speak about an individual's character.

a. Parties involved in the investigation may, under limited and extenuating circumstances, request to submit a written statement instead of participating in an interview with the investigator(s). The Title IX Coordinator will determine whether to include in the Investigative Report information provided in a written statement, taking into consideration the relevance of the information and the rights of the Complainant and Respondent to have equal opportunity to present information and witnesses.

b. The investigation may also include the review of any documentation, reports, video or other items the investigator deems relevant to the allegation.

c. The university may dismiss a Formal Complaint or any allegations therein, if at any time during the investigation or hearing, (1) a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; (2) the Respondent is no longer enrolled or employed by the university; or (3) specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations. Either party may appeal any dismissal decision through the appeal procedures set forth below.

7. The investigator(s), in consultation with the Title IX Coordinator, has the discretion to determine the relevance of any witness or evidence and may exclude irrelevant, immaterial or unduly prejudicial information in preparing the Title IX Investigative Report.

- a. An individual's prior or subsequent sexual activity is not relevant and will not be considered, except for one limited, factual purpose:
 - i. Evidence of past sexual experience are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
 - ii. The Complainant and the Respondent engaged in consensual sexual activity prior or subsequent to the alleged Prohibited Offense, and
 - iii. The prior or subsequent consensual sexual activity is offered for the sole purpose of demonstrating how consent was communicated between the parties during the consensual sexual activity, as compared to the alleged Prohibited Offense. Such information will not be used for any other purpose.

8. The investigator(s) will provide each interviewed party a written interview summary for review via their university email account. The interviewed party will review the summary and, within two (2) business days of receipt, will confirm the summary's accuracy or provide a written response. Failure to respond within two (2) business days will be considered confirmation of the accuracy of the summary. The investigator(s) will review any written response by an interviewed party and will incorporate information into the Investigative Report deemed relevant in the discretion of the investigator(s).

9. At the conclusion of the investigative process, the investigator(s) will share a summary of the facts gathered during the investigation with the Complainant and Respondent for their review and response. The identities of individuals named in the report may be redacted as deemed necessary in the sole discretion of the investigator. The parties may submit a written response to the investigator(s) within ten (10) business days in order to:

- a. clarify information,
- b. provide an additional explanation,
- c. submit additional questions for the investigator(s) to ask of other parties or witnesses, or
- d. identify any other relevant information for the investigator to consider.

10. If a written response includes new and relevant information, the investigator will revise the summary of facts accordingly and provide the Complainant and Respondent with opportunities to respond to the new information. Thereafter, the investigator(s) will determine if additional investigation is required. Any further

investigation will follow the steps above. If no further investigation is needed, the investigator(s) will finalize the Investigative Report.

11. The investigator(s) will submit the Investigative Report to the Title IX Coordinator for their review. The Title IX Coordinator will review the Investigative Report to assess its thoroughness, reliability and impartiality. The Title IX Coordinator may request more information or additional investigation.

12. If the Title IX Coordinator determines that the Investigative Report contains insufficient information to constitute a potential violation of this Policy, the case will be closed and the decision will be simultaneously communicated to the Complainant and the Respondent by the Title IX Coordinator in writing. There is no appeal of this decision.

a. Facts established as part of an investigation that reveal conduct that may violate other university policies, procedures or commonly accepted norms of conduct will be referred to the appropriate office for review.

13. If the Title IX Coordinator determines that the Investigative Report contains sufficient information to constitute a potential violation of this Policy, the case will be referred by the Title IX Coordinator to an Administrative Hearing.

a. In order to protect the privacy of the parties, the Investigative Report forwarded to Hearing Administrator will have personally identifiable information replaced with their role in investigation (Complainant, Respondent, Witness 1, etc.).

14. The Title IX Coordinator will send a pre-hearing meeting notice to the university email account of the Complainant and the Respondent. The pre-hearing meeting, which will take place at least ten (10) days prior to a hearing, is between the party, their advisor and the Title IX Coordinator to:

- a. Review the Investigative Report that forms the basis of the complaint;
- b. Explain the charges of the Policy violation filed against the Respondent;
- c. Explain the process for resolving the case, including whether the parties accept or contest the recommended findings of the Investigative Report;
- d. Explain that the Title IX Coordinator will appoint an Administrator to conduct the Administrative Hearing; and

e. Review the process for challenging participation by the Administrator for perceived bias or conflict of interest.

17. Complainants and Respondents can accept or contest the recommended findings of the Investigative Report at the pre-hearing meeting. The party's acceptance or contestation of the recommended finding will be noted for the Administrator as they review the Investigative Report and hold an Administrative Hearing to determine, using a preponderance of the evidence standard, whether to:

- i. affirm the recommended findings of Policy violations contained in the Investigative Report;
- ii. make alternative findings of Policy violations than those contained in the Investigative Report.

18. The Complainant and the Respondent will each have the option to present a written or oral statement to the Administrator. Such statements or the decision to give an oral statement should be provided to the Title IX Coordinator at least five (5) business days prior to the Hearing. However, the Administrative Hearing is not a forum for the parties to present facts, information or witnesses. The parties are expected to provide all relevant facts, information and witnesses to the investigator(s) during the investigation. The Administrative Hearing is an opportunity for the parties to present their arguments as to why the recommended findings of Policy violations in the Investigative Report should or should not be adopted by the Administrator. Any new information presented at the Administrative Hearing will not be considered by the Administrator.

19. The Administrator will permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally.

Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Administrator must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

If a party or witness does not submit to cross-examination at the live hearing, the Administrator must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Administrator

cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

20. Either party may request alternative methods for participating in the Administrative Hearing that do not require physical proximity to the other party, including participating through electronic means that enable the Administrator and parties to simultaneously see and hear the party or the witness answering questions. This request should be submitted to the Title IX Coordinator at least two (2) business days prior to the Hearing.

21. At the conclusion of the Administrative Hearing, the Administrator will deliberate and render a decision regarding whether or not there is a preponderance of the evidence to support the recommended findings in the Investigative Report.

22. The Administrator may affirm or alter the recommended findings of Policy violation contained in the Investigative Report. Thereafter, the Administrator will provide both the Complainant and the Respondent written Notice of the Administrator's decision, including a description of the procedural steps taken by the university from the receipt of the Formal Complaint through the Administrator's finding and the rationale for why a Policy violation was or was not found. As appropriate, a copy of the Notice will also be forwarded to the administrative official immediately responsible for supervision of the Respondent and the appropriate Vice President, Dean, or Director for the unit in which the Respondent works for their review and determination of disciplinary action. The Administrator may, as appropriate, provide these offices with recommended action.

The Administrator will also explain the appeals process to both parties through the Notice.

23. The Complainant and Respondent may notify the Title IX Coordinator of their request to appeal the findings of Policy violations within (5) five business days of receiving notice of the recommended findings of fact. The written appeal will be provided to the non-appealing party, who may, but is not required to provide a response within two (2) business days. The Title IX Coordinator will appoint a Title IX Appeals Board or Administrator to review the written appeal to determine whether it meets any of the following grounds for appeal:

- i. new, relevant information not reasonably available by the completion of the investigation;

- ii. procedural error that prevented the appealing party from a fair opportunity to present information and/or witnesses.
- iii. the Title IX Coordinator, investigator(s), or Administrator(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Once the appeal materials are submitted, the non-appealing party and the investigator will be notified of the appeal and given an opportunity to provide a response within two (2) business days.

- If an appeal is granted on the basis of new information, the Appeal Officer will refer the matter back to the Administrator to determine if the new information alters their original decision.
- If an appeal is granted for procedural error, the process will reset to the point at which the procedural error occurred and proceed from that point.
- If an appeal is granted based on bias from the Title IX Coordinator, Investigator or Administrator, the Appeal Officer will notify the Title IX Coordinator to determine next steps.
 - The Appeal Officer, the parties, and if required witnesses, may be reconvened to review only the new information. The Appeal Officer will render a decision based on all the relevant information provided.

24. At the conclusion of the appeal, both the Complainant and Respondent will be notified, in writing, of the outcome by the Appeal Officer, and the Investigative Report will be forwarded to the appropriate office for consideration of the findings of fact. Any disciplinary action taken based upon the Investigative Report is governed and controlled by other applicable university policy.

Appendix D

Protocols for an Emergency Removal

1. When an alleged violation(s) of the Policy on Rights and Responsibilities Under Title IX is reported and the violation(s) may constitute an immediate threat to the physical health or safety of any student or other individual, the TIX Committee will meet to conduct an individualized safety and risk analysis of the potential need to remove the Respondent(s) from the University on an emergency basis
2. If an Emergency Removal is deemed necessary, the student will receive communication of the Emergency Removal through the Director of OSCCR, or their designee
 - a. This communication will be sent through the Maxient conduct database to the Respondent's university email address;
 - b. A hold will be placed on the student's record;
 - c. The Respondent is not allowed on any university property cannot attend classes or any University sponsored activities both on and off university property;
 - d. The Respondent will need to make advance arrangements with OSCCR for approval any time they may need to be on campus to take care of University-related business during the period of interim suspension;
 - e. Included in the letter will explain the Respondent's opportunity to submit an online request to challenge the decision of the emergency removal
3. If the Respondent wishes to challenge the emergency removal, they will submit an online request form within five (5) business days, explaining in detail the reasons for why they are challenging the Emergency Removal. Grounds to challenge an Emergency Removal are:
 - a. The reliability of the information concerning the appellant's alleged conduct, including the matter of their identity; or
 - b. Whether the alleged conduct and surrounding circumstances reasonably indicate that the continued presence of the appellant on university property or within university programs poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of a Prohibited Offense.
4. The appeal will be reviewed by the Senior Vice Chancellor of Student Affairs, or their designee and the Emergency Removal will remain in effect during the appeal process.
5. The Senior Vice Chancellor of Student Affairs, or their designee, will review the student's appeal, the incident report(s), and the original individualized safety and risk analysis.

- a. The Senior Vice Chancellor of Student Affairs, or their designee, can request to meet with the student in person or virtually, if deemed necessary to obtain any additional information or clarification.
 - i. This meeting will not replace the Resolution process, which shall proceed in accordance with procedures identified in this Policy.
6. A final decision to either (1) uphold the Emergency Removal, (2) modify, or revoke it will be provided to the student within two (2) business days of receiving the student's appeal request or within two (2) business days of the date of the meeting between the Senior Vice Chancellor of Student Affairs and the student.
 - a. There will be no further appeals to the decision rendered upon review.
 - b. If the Emergency Removal is modified or revoked, other supportive, remedial and protective measures may be assigned until the resolution of any related Resolution Option through the OUEC is completed.
 - i. At any point in a Resolution Process of an allegation of a Prohibited Offense, the university has the discretion to impose, lift, reassess, and modify an Emergency Removal as circumstances may warrant and as new information becomes available.
7. If the Emergency Removal is upheld, the Director in OSCCR, or their designee, will send a memo to campus colleagues regarding the emergency removal.