



## Policy 8.2

# Sex and Gender-Based Harassment and Discrimination Policy

**Responsible Official: Office of the Provost**

**Administering Division/Department:**

**Department of Title IX**

**Effective Date: August 14, 2020**

**Last Revision Date: September 1, 2022**

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### Overview

#### I. POLICY STATEMENT

It is the responsibility of every member of the University Community to foster an environment free of Sexual and Gender-Based Harassment and Discrimination. All members of the University Community are encouraged to take reasonable and prudent actions to prevent or stop such behavior.

Emory University (“Emory” or the “University”) is committed to maintaining an environment that is free of unlawful harassment and discrimination. Pursuant to Emory’s commitment to a fair and open campus environment and in accordance with federal law, Emory cannot and will not tolerate discrimination against or harassment of any individual or group based upon race, color, religion, sex, ethnic or national origin, gender, genetic information, age, disability, sexual orientation, gender identity,



gender expression, veteran's status, or any factor that is a prohibited consideration under applicable law. Emory welcomes and promotes an open and genuinely diverse environment.

Title IX of the Educational Amendments of 1972 ("Title IX") protects people from sex discrimination in educational programs and activities at institutions that receive federal financial assistance. Emory fosters a safe learning and working environment that supports academic and professional growth of students, staff, and faculty. Accordingly, Emory does not tolerate Prohibited Conduct in its community and will take prompt action when it occurs.

The University adopts this Policy with a commitment to: (1) a safe and non-discriminatory educational and workplace environment; (2) eliminating, preventing, and addressing the effects of Prohibited Conduct; (3) fostering an environment where all individuals are well-informed and supported in reporting Prohibited Conduct; (4) providing a prompt, fair and impartial process for all parties; and (5) identifying the procedures by which violations of this Policy will be evaluated. Employees, Students, or Third Parties who violate this Policy may face, as appropriate, disciplinary action up to and including termination, expulsion, or other actions. Prohibited Conduct may also constitute crimes that violate federal and state law.

The Policy sets forth how the University will proceed once it is made aware of possible Prohibited Conduct. The Policy is in keeping with our institutional values and is intended to meet our obligations under Title IX ; Title VII of the Civil Rights Act of 1964 ("Title VII"); and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), as amended by the Violence Against Women Reauthorization Act of 2013 ("VAWA"), with respect to its application to gender- and sex-based misconduct; and other applicable law and regulations. The Policy:

- Specifies Prohibited Conduct;
- Defines important concepts, like affirmative consent, that have a bearing on what is considered acceptable, and Prohibited Conduct;
- Describes available reporting options, including sources of confidential reporting;
- Discusses supportive and protective measures that may be available to support and assist Employees, Students, and Third Parties affected by Sexual and Gender-Based Harassment and Discrimination;
- Explains the investigation, hearing, and sanctioning processes for matters in which Students, Employees, and Third Parties are accused of misconduct; and
- Contains a comprehensive list of on and off-campus resources available to Employees, Students and Third Parties affected by Sexual and Gender-Based Harassment and Discrimination, including phone numbers, addresses, and websites.

Under this Policy, retaliation is prohibited against someone who has filed a Formal Complaint (a Complainant), has been the subject of a Formal Complaint (a Respondent), or any other individual who



engages with the University in connection with a Formal Complaint. The University will take steps to prevent retaliation and will also take strong responsive action if retaliation occurs.

Concerns, complaints, or questions relating to this Policy may be directed to the staff members listed below:

Nicole Babcock  
University Title IX Coordinator  
Department of Title IX  
Administration Building, Suite 305  
201 Dowman Drive  
Atlanta, GA 30322 Phone:  
(404) 727-8205  
[nicole.babcock@emory.edu](mailto:nicole.babcock@emory.edu)

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Danica Myers  
Interim Title IX Coordinator for Students  
Interim Title IX Coordinator for Faculty and Staff  
Department of Title IX  
Administration Building, Suite 305  
201 Dowman Drive  
Atlanta, GA 30322  
Phone: (404) 727-3180  
[dmyers5@emory.edu](mailto:dmyers5@emory.edu)

Questions may also be directed to a Deputy Title IX Coordinator. Their names and contact information are listed at the end of this document.

### **Applicability**

## **II. POLICY JURISDICTIONAL SCOPE AND APPLICABILITY**

This Policy applies to Students, Employees, and Third Parties. This Policy covers acts of Prohibited Conduct committed by or against Students, Employees, and Third Parties when:

- A. Conduct falls within the definition of Title IX Misconduct (as defined in [Section III B](#)).
- B. Conduct occurs in a University Program or Activity, including, but not limited to, conduct that occurs on the University campus or other property owned or controlled by the University; conduct that occurs off campus, but in a University Program or Activity; in the context of University employment; or in the context of University-sponsored study abroad, research, field work, practica, or internship programs; (collectively “Prohibited Conduct”);  
or



- C. Conduct occurs outside of a University Program or Activity but poses a serious threat of harm, has a continuing adverse effect on, or creates a hostile environment for, Students, Employees, or Third Parties. In determining whether the University has jurisdiction over off-campus or online conduct that is not part of a University program or activity of the University, the University will consider the severity of the alleged conduct, the risk of ongoing harm, whether both parties are members of the University Community, impact on University programs or activities, and whether off-campus conduct is part of a series of actions that occurred both on and off campus (collectively, “Prohibited Conduct”).

Study-abroad programs and off-campus locations that are not within the University’s education program or activity are not covered by the Title IX regulations, but may constitute Prohibited Conduct under this Policy, and is subject the Non-Title IX Prohibited Conduct Procedure for Students (*See Appendix B*) and the Equal Opportunity and Harassment Policy 1.3. (*See prohibited conduct referral process in Section XI of this Policy*).

## Definitions

### III. POLICY DEFINITIONS

Prohibited Conduct includes a range of behaviors focused on sex and/or gender. Prohibited Conduct can occur between strangers, acquaintances, or people who know each other well, including between people involved in a consensual relationship. Prohibited Conduct can be committed by anyone regardless of gender identity or sexual orientation and can occur between people of the same or different sex or gender.

Consensual sexual activity requires a **knowing, voluntary, and mutual decision by all participants involved. Any non-consensual sexual activity is Prohibited Conduct.** A person who initiates sexual activity is responsible for obtaining consent for that conduct.

The following are grounding principles:

- Conduct that is not voluntary, including coerced sexual activity, is not consensual.
- A sleeping, unconscious, or incapacitated person cannot give affirmative consent.
- The use of alcohol or drugs does not justify or excuse Prohibited Conduct and never makes someone at fault for experiencing Prohibited Conduct.
- A person cannot give affirmative consent if the person lacks the ability to make or understand the decision to affirmatively consent to sexual activity. A person’s ability to decide to give affirmative consent might be significantly impacted by a disability, excessive consumption of alcohol, consumption of drugs, or unwilling restraint of the person by another; in each case, however, the specific factual circumstances regarding the issue of a person’s capability to provide affirmative consent must be considered.

For purposes of this Policy, some key terms are defined below. Additional terms are defined within the text of the Policy.



A. **Prohibited Conduct (aka Sexual Misconduct):** As referred to in [Section IV](#), “Prohibited Conduct” is an umbrella term that encompasses all unwelcome conduct based on sex or gender that is so severe and/or pervasive that it has the purpose or effect of unreasonably interfering with a person’s University employment, academic performance or participation in University programs or activities, or creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive. “Prohibited Conduct” includes Non-Consensual Sexual Intercourse, Non-consensual Sexual Contact; Sexual Exploitation; Sexual Harassment; Gender-Based Harassment; Retaliation; Aiding, Facilitating, Encouraging, Concealing, or Otherwise Assisting, Violating a Protective Measure and Title IX Misconduct. For a definition of each type of Prohibited Conduct, please refer to [Section IV](#) below.

B. **Title IX Misconduct:** “Title IX Misconduct” is a subset of Prohibited Conduct that rises to a level of severity and pervasiveness such that it is prohibited expressly by Title IX. Prohibited Conduct meets the definition of Title IX Misconduct when:

- An Employee conditions the provision of an aid, a benefit, or a service of the University on another Employee, Student, or Third Party’s participation in unwelcome sexual conduct;
- A Student, Employee, or Third Party engages in unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies another person equal access to the University’s programs or activities; or
- A Student, Employee, or Third Party engages in Sexual Assault, Dating Violence, Domestic Violence, or Stalking, as defined in [Section IV \(9\)](#) below.

Alleged conduct is Title IX Misconduct (though it may still be Prohibited Conduct) only if:

- The alleged conduct was perpetrated against a person in the United States;
- The conduct took place within the University’s Programs or Activities; and
- At the time a Formal Complaint is filed, the Complainant was participating in or attempting to participate in the University’s programs or activities.

Conduct that does not meet this strict definition for Title IX Misconduct is still prohibited by this Policy if it otherwise constitutes Prohibited Conduct.

C. **Student:** “Student” means any person pursuing academic studies at the University. The term also includes:

- A person who, while not currently enrolled, was previously enrolled at Emory and who is reasonably anticipated to seek enrollment at a future date, or



- A person who has applied to or been accepted for admission to Emory and has accepted an offer of admission or may reasonably be expected to enroll, or
  - A person enrolled in an Emory program on a credit or non-credit basis.
- D. **Employee:** “Employee” means all regular instructional faculty, supplemental instructional faculty, research track faculty, visiting faculty, adjunct faculty, or any individual who has an appointment at the University, librarians, archivists, curators, and all regular and temporary staff.
- E. **Third Party:** “Third Party” means all University contractors, guests, vendors, visitors, volunteers, and any individual who is participating in or attempting to participate in a University program or activity, but who is neither enrolled in an academic program and/or course at the University nor acting as a University Employee for purposes of alleged Prohibited Conduct (e.g., an individual who is participating in a summer camp; an individual who is attending a University program or activity by invitation or that is open to the public).
- F. **Complainant:** “Complainant” is used to refer to a Student, Employee, or Third Party who is reported to have experienced Prohibited (including Title IX Misconduct). In some instances, the person who is reported to have experienced such Prohibited Conduct may not wish to participate in a University process. In those cases, the University may pursue an investigation and adjudication under this Policy without a participating Complainant (in the case of Title IX Misconduct, the Title IX Coordinator may file the required Formal Complaint). For ease of reference, “Complainant” is used throughout this Policy and related procedures to refer generally to an individual who is reported to have experienced Prohibited Conduct (including Title IX Misconduct), even if they do not participate in any related process.
- G. **Formal Complaint:** “Formal Complaint” means a document signed by a Complainant or by the Title IX Coordinator alleging a Respondent engaged in Title IX Misconduct or Prohibited Conduct and requesting initiation of the University’s grievance procedures. Formal Complaints are required when the conduct being reported is Title IX Misconduct or Prohibited Conduct. At the time of filing a Formal Complaint, the Complainant must be participating in, or attempting to participate in, the University’s Programs or Activities. A Formal Complaint must be a written statement or electronic submission (such as by email) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or a party during a grievance process.
- H. **Respondent:** “Respondent” is defined as an individual who is reported to have committed Prohibited Conduct.



- I. **The University's Programs or Activities:** "The University's Programs or Activities" are defined as (1) locations, events, and circumstances where the University exercises substantial control over the Respondent and the context in which the Prohibited Conduct (including Title IX Misconduct) occurred; and (2) events or circumstances taking place in any building owned or controlled by a student organization recognized by the University.
- J. **Responsible Employees:** "Responsible Employees" refer to individuals who, based on their role with respect to the University, are required to report to the Title IX Coordinator information about alleged Prohibited Conduct, including Title IX Misconduct. Responsible Employees are (1) University Employees (including Faculty and Staff); (2) Resident Advisors ("RAs"); and (3) Teaching Assistants or Teaching Associates. Designating an individual or group of individuals as "Responsible Employee(s)" does not affect an individual's employment status at Emory. For instance, RAs and Teaching Assistants or Teaching Associates are not employees. Rather, the University is simply identifying those individuals as mandatory reporters using the terminology familiar to those who participate in the Title IX process. A full list of Responsible Employees and more information about a Responsible Employee's obligations can be found in [Section VI](#). [As noted below, a Responsible Employee's receipt of information about alleged Prohibited Conduct (including Title IX Misconduct) will not automatically trigger a formal resolution under this Policy. The University will not commence a formal resolution of Prohibited Conduct (including Title IX Misconduct) without a Formal Complaint (which may be filed by the Complainant or by the Title IX Coordinator).]
- K. **University Community:** "University Community" refers to Students, Employees, and Alums.
- L. **Reasonable Person:** "Reasonable Person" is defined as a person using average care, intelligence, and judgment in the known circumstances.
- M. **Protected Activity:** "Protected Activity" includes most elements of participation in the University's processes related to this Policy, including, but not limited to: reporting Prohibited Conduct; pursuing a resolution of Prohibited Conduct; providing evidence in any investigation or hearing; or intervening to protect others who may have suffered Prohibited Conduct. Retaliation against any person because of Protected Activity is prohibited under this Policy, as discussed in [Section IV](#).
- N. **Course of Conduct:** "Course of Conduct" is defined as two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- O. **Substantial Emotional Distress:** "Substantial Emotional Distress" is defined as significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.



- P. **Crime of Violence:** Crime of Violence is defined as (a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.
- Q. **Grievance Procedure:** “Grievance Procedure” is defined as the formal process by which the University evaluates a Complainant’s Formal Complaint as set forth in [Section XI](#).

## Policy Details

### IV. PROHIBITED CONDUCT

Prohibited Conduct under this Policy includes the following specifically defined forms of behavior:  
Non-

Consensual Sexual Intercourse, Non-Consensual Sexual Contact; Sexual Exploitation; Sexual Harassment; Gender-Based Harassment; Retaliation; Aiding, Facilitating, Encouraging, Concealing, or Otherwise Assisting in Prohibited Conduct, Violating a Protective Measure and Title IX Misconduct.

Some Prohibited Conduct, that is sufficiently severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity and conduct that conditions an aid or benefit on unwelcome sexual activity, may also constitute Title IX Misconduct. Title IX Misconduct is a subset of Prohibited Conduct that rises to a level of severity and pervasiveness such that it is prohibited expressly by Title IX.

Federal law requires the University to define Title IX Sexual Harassment as including Sexual Assault (as defined in 20 U.S.C. 1092(f)(6)(A)(v)), Dating Violence (as defined in 34 U.S.C. 12291(a)(10)), Domestic Violence (as defined in 34 U.S.C. 12291(a)(8)), and Stalking (as defined in 34 U.S.C. 12291(a)(30)). The statutory definitions for these offenses were written by law enforcement. Because community members are not typically lawyers or law enforcement officials and the statutory definitions may in some cases be difficult for understand, the University has provided summary definitions for Sexual Assault, Dating Violence, Domestic Violence, and Stalking below. These summary definitions are intended to encompass the identical conduct as the legal definitions but are only an aid for community members -- they are not legal definitions. The statutory definitions, which we have inserted the corresponding link in this section, are the definitions that the University must and will use to decide whether reported conduct falls within the scope of Title IX Sexual Harassment for purposes of this Policy.

Whether someone has engaged in Prohibited Conduct under this Policy will be assessed under a Reasonable Person standard, which means the conduct will be evaluated from an objective standard that does not directly depend on the perspective of the Complainant, but it depends on the perspective of a reasonable person similarly situated to the Complainant and in consideration of the context of the behavior and circumstances.



Some reports of Prohibited Conduct may also contain allegations that also implicate other University policies. Where such reports are made to the Title IX Coordinator, the Title IX Coordinator may refer such reports to the appropriate University office.

## **A. Types of Prohibited Conduct**

### **1. Non-Consensual Sexual Intercourse (Prohibited Conduct)**

Any form of vaginal, anal, or oral penetration by a penis, object, tongue, or digits without a person's affirmative consent; or oral copulation (mouth-to-genital contact or genital-to-mouth contact) without a person's affirmative consent, no matter how slight the penetration or contact.

### **2. Non-Consensual Sexual Contact (Prohibited Conduct)**

Any intentional sexual touching, directly or indirectly, without a person's affirmative consent. Intentional sexual touching includes deliberate contact, under or over clothing, with the breasts, buttocks, groin, or genitals, or conscious and willful touching another with any of these body parts; making another person touch any of these body parts under or over clothing; and the emission of ejaculate on the clothing or body of another person.

### **3. Sexual Exploitation (Prohibited Conduct)**

Non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other purpose. Examples of sexual exploitation may include, but are not limited to: invasion of sexual privacy; prostituting an individual; non-consensual video- or audio-recording of sexual activity or circulation of such recorded material (i.e. revenge pornography); non-consensual photographing individuals who are partly undressed, naked, or engaged in sexual acts and transmitting or posting those photographs without an individual's consent; observing unsuspecting individuals who are partly undressed, naked, or engaged in sexual acts; knowingly transmitting a sexually transmitted disease (STD); exposing one's breasts, buttocks, or genitals without affirmative consent or inducing another to do the same; and inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

### **4. Sexual Harassment (Prohibited Conduct)**

Unwelcome sexual advances, requests for sexual contact or favors, conduct based on gender stereotypes, or other verbal, non-verbal, physical, or visual conduct of a sexual nature constitutes sexual harassment when:

- i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic, co-curricular, or campus life activities or of an individual's employment;
- ii. Submission to or rejection of such conduct by an individual is used as the basis for academic or student life or employment decisions affecting that individual;



- iii. The conduct is so severe and/or pervasive that it unreasonably interferes with a person's University employment, academic performance, or participation in University programs or activities; or

- iv. The conduct is so severe and/or pervasive that it creates an intimidating, hostile, demeaning, or offensive campus or living environment or employment setting.
- Depending upon the severity and/or pervasiveness of the conduct, sexual harassment may include, for example, subjecting a person to egregious, unwelcome sexual attention, physical or verbal advances, sexual flirtations or propositions, vulgar talk or jokes, degrading graphic materials or verbal comments of a sexual nature about an individual or his or her appearance, or the display of sexually suggestive objects outside a scholarly context and purpose.
  - Conduct of a sexual nature that falls within the definition of Sexual Activity, above, will typically be reviewed as alleged Sexual Assault or Sexual Exploitation, as applicable, but may also be reviewed as alleged Sexual Harassment. Examples of conduct that may constitute Sexual Harassment include, but are not limited to:
    - a. Unwanted intentional touching such as kissing, hugging, or sexual touching that otherwise does not typically constitute Sexual Assault, defined above;
    - b. Unwanted sexual advances, including repeated unwanted requests for dates, or repeated unwanted requests for sexual contact;
    - c. Unwanted written, verbal, or electronic statements or photos of a sexual nature, including sexually suggestive comments, jokes, or innuendos;
    - d. Exposing one's genitalia, breasts, or buttocks, to another (including electronic means of exposure); and/or
    - e. Touching oneself sexually for others to view (including electronic means of exposure).

This definition addresses intentional conduct. It also includes conduct that results in negative effects even though such negative effects were unintended.

#### **5. Aiding, Facilitating, Encouraging, Concealing, or Otherwise Assisting in Prohibited Conduct (Prohibited Conduct)**

Aiding, facilitating, encouraging, concealing, or otherwise assisting in a violation (or attempted violation) of this Policy is prohibited by this Policy.

#### **6. Gender-Based Harassment (Prohibited Conduct)**

Gender-Based Harassment includes harassment based on actual or perceived sex, sexual orientation, gender identity, gender expression, or pregnancy. Such harassment may include acts of aggression, intimidation, or hostility, whether verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the behavior:

- Effectively denies access to a University program or activities, as defined by a reasonable person;



- Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity; and/or
- Creates a hostile environment for that individual's participation in a University program or activity. A hostile environment exists when the conduct is sufficiently severe, persistent, and pervasive that it unreasonably interferes with an individual's participation in a University program or activity, or creates an intimidating, hostile, offensive, or abusive environment for that individual's employment, education, living environment, or participation in a University program or activity. Conduct must be deemed severe, persistent, and pervasive (based upon a reasonable person standard). In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including the nature, frequency, intensity, location, context, and duration of the behavior.

Although a harassing hostile environment is generally created through a series of incidents, for purposes of this Policy, a severe incident, even if isolated, can be sufficient. Examples of conduct that may constitute Gender-Based Harassment include but are not limited to:

- A series of written, verbal, or electronic statements that disparage a person based on their actual or perceived sex, gender identity, gender expression, sexual orientation, or pregnancy;
- Threats of violence toward an individual based on their actual or perceived identity; within a protected class, or toward an entire sex, gender identity, gender expression, sexual orientation, or pregnancy status as a group; and/or
- Defacing University property, or another individual's property, with symbols or language intended or understood by a Reasonable Person to disparage or threaten a person or group based on sex, gender identity, gender expression, sexual orientation, or pregnancy.

This definition addresses intentional conduct. It also includes conduct which results in negative effects even though such negative effects were unintended. Unwelcome behavior constitutes Gender-Based Harassment if a Reasonable Person would consider it sufficiently severe, persistent, and pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a University activity or living environment.

## **7. Violation of Protective Measures (Prohibited Conduct)**

Violation of a protective measure occurs when an individual deviates from the guidelines of an express directive by a University official. Violation of a Protective Measure is considered a violation of this policy.

## **8. Retaliation (Title IX Misconduct and Prohibited Conduct)**

Any adverse action or threatened action, taken or made, personally or through a third party, against someone who has filed a sexual harassment/misconduct complaint (a Complainant), has been the subject of a sexual harassment/misconduct complaint (a Respondent), or any other individual who engages with the University in connection with a sexual harassment/misconduct

complaint. All individuals and groups of individuals, not just a Respondent or Complainant, are prohibited from engaging in retaliation.

- Retaliation includes directly or indirectly threatening, intimidating, harassing, or engaging in any other conduct that would discourage a reasonable person from engaging in activity protected under this Policy, such as seeking services; receiving protective measures and accommodations; reporting sexual harassment/misconduct; and/or participating in an investigation or adjudication.
- Retaliation includes maliciously and purposefully interfering with, threatening, or damaging the academic or professional career of another individual before, during or after the investigation and resolution of a report of Sex- and Gender-Based Harassment/Misconduct under this Policy.

Retaliation may be present even when there is a finding of “no responsibility.”

This provision does not apply to reports made, or information provided, in good faith, even if the facts alleged in the report are determined not to be accurate. Filing a counter complaint, counter appeal, or conduct complaint through processes established by University policy does not, in itself, constitute retaliation, unless it is determined that the filing was without a reasonable basis and made in bad faith.

Supportive Measures and other actions taken in accordance with this, or other University policies do not constitute Retaliation. Similarly, charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith. Retaliation also does not include pursuit of civil, criminal, or other legal action, internal or external to the University.

## 9. Sexual Harassment (Title IX Misconduct):

Sexual harassment occurs when:

- (1) An Employee conditions the provision of an aid, benefit, or service of the university on an individual’s participation in unwelcome sexual conduct, or
- (2) an individual is subjected to unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies the individual equal access to the University’s education program or activity
- (3) **Sexual Assault:** Sexual assault is any sexual act directed against another person without the consent of the complainant, including any of the following:
  - Sexual intercourse with another person, including oral or anal sexual intercourse, or the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without 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;



- Touching of the private body parts 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 or physical incapacity;
- Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- Sexual intercourse with a person who is under the statutory age of consent.

Clery Act Definition:

<https://www.law.cornell.edu/cfr/text/34/668.46>

(4) **Domestic violence:** Domestic violence includes felony or misdemeanor crimes of violence committed:

- By a current or former spouse or intimate partner of the victim,
- By a person with whom the victim shares a child in common,
- By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of Georgia, or
- By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of Georgia.

Clery Act Definition:

<https://www.law.cornell.edu/cfr/text/34/668.46>

(5) **Dating violence:** Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Clery Act Definition:

<https://www.law.cornell.edu/cfr/text/34/668.46>

(6) **Title IX Stalking:** Stalking, for purposes of [Title IX Misconduct], means engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

Clery Act Definition:

<https://www.law.cornell.edu/cfr/text/34/668.46>

## B. Important Related Concepts and Definitions



## 1. Affirmative Consent

“Affirmative consent” is a knowing, voluntary, clear, and mutual agreement among all participants to engage in specific sexual activity.

- i. Affirmative consent can be given by words or actions, as long as those words or actions express willingness to engage in the sexual contact or activity. It is important not to make assumptions. If there is confusion or ambiguity, participants in sexual activity should stop and verbally clarify each person’s willingness to continue. A person who wants to engage in a specific sexual activity is responsible for obtaining affirmative consent for that activity.
- ii. Affirmative consent to one form of sexual activity does not imply affirmative consent to other forms of sexual activity.
- iii. Affirmative consent to engage in sexual activity with one person does not imply affirmative consent to engage in sexual activity with another person.
- iv. Silence or the lack of resistance, in and of itself, does not demonstrate affirmative consent. Again, it is important not to make assumptions; if confusion or ambiguity arises during a sexual interaction, each participant should stop and verbally clarify the other’s willingness to continue engaging in the sexual contact or activity.
- v. Affirmative consent may be initially given, but it can be withdrawn at any time. When affirmative consent is withdrawn or can no longer be given, sexual activity must stop.
- vi. Previous relationships or previous affirmative consent for sexual activity is not affirmative consent to sexual activity on a different occasion.
- vii. The definition of affirmative consent does not vary based upon a participant’s sex, sexual orientation, gender identity, gender expression or relationship status.
- viii. Affirmative consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, coercion, or from a person who is incapacitated.
- ix. Under Georgia law, minors under the age of 16 years are generally unable to provide affirmative consent, with narrow exceptions. See O.C.G.A. § 16-6-3, Statutory Rape.

## 2. Force

“Force” refers to the use of physical violence and/or imposing on someone physically to gain sexual access. Sexual activity that is forced is non-consensual.

## 3. Incapacitation

“Incapacitation” occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. A person who is incapacitated lacks the ability to understand a decision to participate in sexual activity.

- i. Incapacitation may be associated with a person’s lacking consciousness or awareness; being asleep; being involuntarily restrained; having a disability that impedes affirmative consent; or if an individual otherwise cannot affirmatively consent due to other forms of mental or physical helplessness.



- ii. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to provide affirmative consent.
- iii. Alcohol and drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given. It is the responsibility of each party to be aware of the intoxication level of the other party before engaging in sexual activity. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity. Being intoxicated, impaired, or incapacitated by alcohol or other drugs is never an excuse for Prohibited Conduct and does not diminish anyone's responsibility to obtain affirmative consent. The use of alcohol or other drugs never makes someone at fault for experiencing Prohibited Conduct.
- iv. Please see [Appendix E](#) to this Policy for a list of factors that will be considered in making a determination of whether the Complainant's incapacitation has rendered the Complainant unable to provide affirmative consent.

#### **4. Coercion**

"Coercion" is conduct that would reasonably place an individual in fear of immediate or future physical, emotional, or other harm and that is used to pressure someone to engage in sexual contact. Coercion can include manipulation, intimidation, unwanted contact, express or implied threats of harm. Coercion is more than an effort to persuade, entice or attract another person to engage in sexual activity. In evaluating whether coercion was used, the University will consider whether pressure was applied and, if so, the frequency, intensity, and duration of the pressure, as well as the degree of isolation of the person being pressured. Sexual activity that is coerced is non-consensual.

#### **5. Intimidation**

"Intimidation" is the use of implied or overt threats that menace or cause reasonable fear to overcome an individual's freedom of will to choose whether or not to participate in sexual activity or provide affirmative consent. Affirmative consent obtained by intimidation is not valid.

#### **6. Report**

A "Report" of "Prohibited Conduct" or "Title IX Misconduct" occurs when a Student, Employee, or Third Party notifies the Department of Title IX of alleged misconduct and requests support and resources, but where there has not yet been a decision about whether to resolve the allegations through University administrative process.

### **V. REPORTING**

As Sexual and Gender-Based Harassment and Discrimination may, in some instances, constitute a violation of University policy and constitute criminal activity, the University encourages individuals to report alleged Prohibited Conduct promptly to campus officials and to law enforcement authorities, where appropriate.

The University and criminal justice systems work independently from one another; a Complainant may proceed with a Title IX grievance procedure and the criminal justice process concurrently, though investigations for each process will be conducted separately. Law enforcement authorities do not determine whether a violation of this Policy has occurred, and the criminal justice system

uses different standards related to proof and evidence. Any questions about whether a specific incident violated the criminal law should be addressed to law enforcement.

Individuals may file a report at any time, but the University strongly encourages individuals to file complaints promptly in order to preserve evidence for a potential legal and/or grievance process.

Information on reporting Prohibited Conduct and a summary of helpful resources if a Student, Employee or Third Party has been impacted by Prohibited Conduct can be found in a brochure entitled “Sexual or Gender-Based Violence and Harassment: What You Need to Know,” which is available in hard copy in the Department of Title IX and in other locations on campus.

## **A. Sources for Confidential Reporting**

### **1. Confidential Communications**

The University understands that a Complainant may wish to discuss an incident of Prohibited Conduct in a confidential manner with a resource who is not required to report the incident to the Department of Title IX. There are five (5) resources at the University’s Atlanta campus and at the Oxford campus with whom communications are confidential and, in some cases, privileged. Contact information for these resources is located below in [Appendix B](#). They are as follows:

- a. Counseling and Psychological Services (CAPS) - Atlanta Campus / Counseling and Career Services (CCS) – Oxford Campus:** Both CAPS and CCS offer professional, licensed counselors who provide mental health counseling to students.
- b. Office of Spiritual and Religious Life – Atlanta and Oxford Campuses:** These Offices have chaplains and clergy members who provide pastoral counseling in their professional roles.
- c. Student Health Services (SHS) – Atlanta and Oxford Campuses:** A disclosure may be made to healthcare providers in their caregiving roles.
- d. Emory Ombuds Office - Atlanta and Oxford Campuses:** The Ombuds Office is a confidential resource for faculty, staff, and students.
- e. Faculty and Staff Assistance Program (FSAP):** A disclosure may be made to a licensed mental health professional within FSAP.

***Please Note:** In limited circumstances, these privileged and confidential resources may have reporting or other obligations under state law and may have an obligation to follow moral and ethical guidelines. These reporting or other obligations may limit the extent to which the professional counselor may maintain a Complainant’s confidentiality.*

## **B. Reporting to the Department of Title IX**

The University encourages individuals to report Prohibited Conduct to the University Title IX Coordinator, Title IX Coordinator for Students, Title IX Coordinator for Faculty and Staff, to



the appropriate Deputy Title IX Coordinator associated with the impacted student's school, or to a Human Resources professional. By doing so, the University can take immediate steps to investigate and respond effectively to reports and the Complainant can learn more about available resources and the Title IX process.

Contact information for the University Title IX Coordinator, Title IX Coordinator for Students, and Title IX Coordinator for Faculty and Staff is located immediately below.

Nicole Babcock  
University Title IX Coordinator  
(404) 727-8205  
[nicole.babcock@emory.edu](mailto:nicole.babcock@emory.edu)

Danica Myers  
Interim Title IX Coordinator for Students  
Interim Title IX Coordinator for Faculty  
and Staff  
(404) 727-3180  
[dmyers5@emory.edu](mailto:dmyers5@emory.edu)

***Please note, you may make a report at any time, but the Title IX Coordinators are only available to speak during business hours. For emergency calls, please call 911.***

The University Title IX Coordinator oversees the University's response, obligations, and responsibilities to Title IX and ensures the Title IX policy, procedures, protocols, and practices are in alignment with federal regulations. The Title IX Coordinator for Students and the Title IX Coordinator for Faculty and Staff assist the Title IX Coordinator in overseeing the University's response to Title IX Misconduct reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints. They do not act as advocates but as neutral resources available to all students and employees.

The Title IX Coordinator for Students (or designee) and the Title IX Coordinator for Faculty and Staff (or designee) are responsible for referring individuals and employees to available resources, offering appropriate supportive measures and protections, and coordinating the disciplinary grievance procedure. Moreover, the Title IX Coordinator for Students and the Title IX Coordinator for Faculty and Staff also have primary responsibility for overseeing the investigation and adjudication of Prohibited Conduct complaints and coordinating remedial action.

In addition to the University Title IX Coordinator, Title IX Coordinator for Students, and Title IX Coordinator for Faculty and Staff, there are designated Deputy Title IX Coordinators within each of the University's schools who are also able to receive reports of Prohibited Conduct. For the names, affiliations and contact information for each of the Deputy Title IX Coordinators, please see Appendix D of this Policy. The list of Deputy Title IX Coordinators can also be found on the Department of Title IX's website: <http://equityandinclusion.emory.edu/title-ix/coordinators.html>.

The Department of Title IX will reveal information about its investigation and adjudication of Prohibited Conduct only to those who need to know the information in order to carry out their duties and responsibilities, and as required by law. It will inform all University individuals participating in an investigation, proceeding, or hearing that they are expected to maintain the



privacy of the process; however, the University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

### **C. Reporting to the Emory Police Department (EPD) / Oxford Police Department (OPD) or Law Enforcement**

Students, Employees, and Third Parties have the option to file a complaint directly with EPD or OPD, as appropriate, or other applicable law enforcement authorities, so that the matter can be pursued through the criminal justice system. Students, Employees, and Third Parties may contact the Department of Title IX, and resources such as the Respect Program, for assistance in filing a complaint with law enforcement.

*In an emergency situation, Students and Employees should call 911 to be directed to the closest law enforcement agency.*

#### **Atlanta Campus**

**Emory Police Department:** 7-6111 (on-campus) or (404) 727-6111 (off-campus)

**Atlanta Police Department:** (404) 614-6544

#### **Oxford Campus**

**Emory Police Department:** 7-6111 (on-campus) or (404) 727-6111 (off-campus)

**Newton County Sheriff's Office:** (678) 625-1403

Students, Employees, and Third Parties may also provide information to the EPD on an anonymous basis by utilizing the TIPS line ((404) 727-TIPS/8477). The Atlanta Police Department also operates an anonymous tip line: (404) 577-TIPS/8477. However, as a practical matter, the police response may be hindered or limited if a complaint is made anonymously.

*Please note, the Emory Police Department's and Atlanta Police Department's anonymous TIPS lines are not for emergencies.*

### **D. Information on Filing a Formal Complaint**

When a Complainant has experienced Prohibited Conduct, the Complainant may file a Formal Complaint with the Title IX Coordinator in person, by mail, or by email. The Formal Complaint must contain the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing, and it should express a request that the University commence an investigation of the allegations in the Formal Complaint.

The Title IX Coordinator has discretion to file a Formal Complaint of reported Prohibited Conduct, even if the Complainant chooses not to participate in the process and/or does not wish to file a Formal Complaint, when the Title IX Coordinator determines that the report includes conduct that poses a threat to the health, safety and well-being of the community.

The following factors may be considered when determining how to respond: the seriousness of the alleged sexual misconduct, the Complainant's age, whether there have been other complaints of Prohibited Conduct against the same Respondent. Please note, in cases involving a pattern of conduct by the Respondent, the use of weapons, or drugs to limit a Complainant's capacity, Emory is required to move forward with a formal process, even if the Complainant



does not wish to do so. After a Formal Complaint has been filed by a Complainant or signed by the Title IX Coordinator, the University will commence its formal grievance process.

## **E. Other Information About Reporting**

### **1. Reports from Others and Anonymous Reports**

In cases where Prohibited Conduct is reported to the Title IX Coordinators or a Deputy Title IX Coordinator by someone (for example, a faculty member, resident advisor, friend, roommate or coworker) other than the Student, Employee, or Third-Party individuals who were subjected to the alleged misconduct, the Title IX Coordinator will promptly notify the impacted Student, Employee, or Third Party that a report has been received and will provide information about available resources. This Policy will apply in the same manner as if the impacted Student, Employee, or Third Party had made the initial report. The Title IX Coordinator will make every effort to meet with the impacted Student, Employee, or Third Party to discuss available options and on-campus and off-campus resources. The Department of Title IX will handle reports from anonymous sources in the same manner. A Formal Complaint cannot be filed anonymously.

### **2. Requests Not to Pursue a Complaint or Requests for Confidentiality**

A Complainant may decide to report an alleged incident of Prohibited Conduct (including Title IX Misconduct) without pursuing resolution of the complaint through the Title IX grievance process. A Complainant may also request that the University keep their identity confidential. The University takes these requests seriously; however, such requests may limit the University's ability to investigate and respond to the reported misconduct.

The Title IX Coordinator will decide whether to grant requests not to investigate the report or to keep the Complainant's identity confidential in light of the potential threat(s) of harm to the Complainant and/or the campus community. In determining whether to honor the request, the Title IX Coordinator will consider the seriousness of the alleged Prohibited Conduct, the Complainant's age, the Respondent's disciplinary history, and the parties' rights under the Family Educational Rights and Privacy Act (FERPA). The Title IX Coordinator will promptly notify the impacted Student, Employee, or Third Party making a request for confidentiality whether the University will be able to honor the request. If the Title IX Coordinator determine they must disclose a Complainant's identity to a Respondent, they will inform the Complainant prior to filing a Formal Complaint for a formal investigation.

University personnel will reveal information about investigations and disciplinary proceedings related to Prohibited Conduct only on a "need to know" basis.

Please note: The fact that the University will keep information confidential does not prohibit either a Complainant or Respondent from obtaining the assistance of family members, counselors, therapists, clergy, doctors, attorneys, or similar resources. Additionally, there is no restriction preventing either party from discussing the alleged incident itself.

Even when the University is in receipt of a request not to pursue a complaint, Title IX requires that the University take action in response to the information known to it.



### 3. Related Alcohol and Drug Violations

The University recognizes that an impacted individual who has been drinking and/or using drugs at the time that Prohibited Conduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Because the University strongly encourages reporting Prohibited Conduct, an impacted individual who, in good faith, discloses any incident of Prohibited Conduct to a University employee or to law enforcement will not be subject to disciplinary action for personal consumption of drugs or alcohol, so long as such conduct did not place the health or safety of another person at risk. The Title IX Coordinator may initiate an educational discussion or recommend other voluntary educational or therapeutic remedies regarding alcohol or other drugs for the reporting individual(s).

### 4. Reporting of Crime and Disciplinary Statistics

The Clery Act requires the University to record and report certain information about campus safety, including the number of incidents of certain crimes on or near campus, some of which constitute Prohibited Conduct under this Policy. As described in the chart in the Resources section and in [Appendix C](#), many employees who receive reports of Prohibited Conduct are required by the Clery Act to notify EPD about such incidents for statistical reporting and safety purposes, including some employees who are otherwise considered confidential resources. These notifications may include the classification and location of the reported crime but do not identify the students involved.

### 5. Reporting of Child Abuse

Unless an exception under Georgia state law applies, the University requires all affiliates, including faculty, staff, student employees, certain volunteers whose capacity of employment or duties involve interaction with children and vendors, to report suspected child abuse of which they are made aware in their capacity at the University. Under Georgia law, child abuse includes sexual abuse or exploitation of a person who is under eighteen (18) years old. Any uncertainty about whether reporting is required should always be resolved in favor of making a report to the EPD. For more information, please read [University Policy 4.119](#), Emory University's Mandated Child Abuse Reporting Policy.

## VI. RESPONSIBLE EMPLOYEES – REPORTING INFORMATION AND OBLIGATIONS

### A. Prompt Reporting

Responsible Employees are required to promptly share with the Title IX Coordinators all details they receive in the scope of their employment about Prohibited Conduct. Responsible Employees can make a report by contacting the Title IX Coordinators as set forth in [Section V](#) above. Failure by a Responsible Employee to promptly share with the Department of Title IX all details they receive in the scope of their employment about Prohibited Conduct may subject them to appropriate discipline, up to and including removal from their position.

The University recognizes that individuals may be most comfortable disclosing Prohibited Conduct to an employee they know well, such as a Campus Life professional, Faculty Member, Coach, or Resident Advisor. Any responsible employee (other than the [Privileged and Confidential](#) or [Limited Confidential Resources](#) listed above) who receives a report is considered a Responsible Employee, and thus, is required to inform the Title IX Coordinators

about the incident, directly, or through their relevant reporting structure, or through a Deputy Title IX Coordinator.

## VIII. SUPPORTIVE MEASURES

Supportive Measures are non-disciplinary, non-punitive individualized services, accommodations, and other assistance that the University offers and may put in place, as appropriate, as reasonably available, and without fee or charge, after receiving notice of possible Title IX Misconduct or other Prohibited Conduct. Supportive Measures are designed to restore or preserve access to the University's education programs and activities, protect the safety of all parties and the University's educational or work environment, or deter Prohibited Conduct, while not being punitive in nature or unreasonably burdening the other party.

Supportive Measures are available regardless of whether the matter is reported to the University for the purpose of initiating a proceeding under this Policy and before, after, and regardless of whether a Formal Complaint of Prohibited Conduct is filed. A Complainant who requests Supportive Measures retains the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date. Any Complainant that requests Supportive Measures will be informed in writing of their right to simultaneously or subsequently file a Formal Complaint pursuant to this Policy.

The Title IX Coordinators, or their designees, will contact a Complainant after receiving a report of possible Title IX Misconduct or other Prohibited Conduct (1) to discuss the availability of Supportive Measures; (2) to ask about the Complainant's wishes with respect to Supportive measures; (3) to explain that Supportive Measures are available with or without the filing of a Formal Complaint; and (4) to explain the process for filing a Formal Complaint. The Title IX Coordinators will consider the Complainant's wishes with respect to implementation of Supportive Measures.

Supportive Measures may also be requested by and made available to Respondents, witnesses, and other impacted members of the University community. Requests for supportive measures shall be submitted in writing to the Title IX Coordinator for Students or the Title IX Coordinator for Faculty and Staff, who will consider these requests on a case-by-case basis.

While the Title IX Coordinators will ultimately serve as the point of contact for any party requesting Supportive Measures, Supportive Measures may, in the first instance, be requested directly from the [Confidential Resources](#) set forth above regardless of whether the Title IX Misconduct or other Prohibited Conduct is otherwise reported to the University or law enforcement. Ultimately, the Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

To determine the appropriate Supportive Measure(s) to be implemented, the University conducts an individualized assessment based on the unique facts and circumstances of a situation. Supportive Measures will not be disciplinary or punitive in nature and will not unreasonably burden, or unreasonably interfere with the educational pursuits of, the other party. Whether a possible Supportive Measure would unreasonably burden the other party is a fact-specific determination that takes into account the nature of the educational programs, activities, opportunities and benefits in which an individual is participating.

Examples of Supportive Measures include:

- Academic support services and accommodations, including the ability to reschedule classes, exams and assignments, transfer course sections, or withdraw from courses without penalty;



- Academic schedule modifications (typically to separate Complainant and Respondent);
- Work schedule or job assignment modifications (for University employment);
- Changes in work or housing location;
- An escort to ensure safe movement on campus;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- No contact directives (to instruct individuals to stop all attempts at communication or other interaction with one another);
- Temporarily limiting an individual's access to certain University facilities or activities;
- Work schedule or job assignment modifications, including suspending employment with or without pay, consistent with any applicable written procedures (for University employment);
- Information about and/or assistance with obtaining personal protection orders;
- Leaves of absences;
- Increased monitoring and security of certain areas of the campus; or
- A combination of any of these measures.

The University will maintain Supportive Measures provided to the Complainant or Respondent as confidential to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

## **IX. EMERGENCY REMOVAL**

Where there is an immediate threat to the physical health or safety of any Students, Employees, or Third Parties arising from the alleged Prohibited Conduct, the University can remove a Respondent from the University's education program or activity and issue any necessary related no-trespass and no-contact orders. The University will make the decision to remove a Respondent from the University's education program or activity based on an individualized assessment and risk analysis.

If the University makes such a decision, the Respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. Challenges to emergency removals must be submitted in writing to the University Title IX Coordinator within 7 business days from the day the parties are notified about the emergency removal. The phrase "business days" shall refer to those days ordinarily recognized by the University's administrative calendar as workdays. The University Title IX Coordinator will review the materials within 5 business days of receipt of the challenge and may affirm the original decision, modify the decision, which may be of greater or lesser severity, or dismiss the original decision. The University Title IX Coordinators' determinations on emergency removals are final and not appealable. Both parties shall receive simultaneous written notice of the outcome of the appeal.

## **X. ADMINISTRATIVE LEAVE**

If the Respondent is an employee, the University may place the employee on administrative leave, with or without pay, to provide time to investigate and evaluate the circumstances regarding the complaint.

## **XI. GRIEVANCE PROCEDURE FOR TITLE IX MISCONDUCT**

The University's grievance procedure for addressing alleged Title IX Misconduct is included in [Appendix A](#).

## **XII. REFERRAL PROCESS FOR PROHIBITED CONDUCT**

For conduct that is not Title IX Misconduct, but still is Prohibited Conduct as defined by this Policy, in keeping with its commitment to maintaining an environment that is free of discrimination, Emory maintains grievance procedures to address other forms of harassment defined by this policy as Prohibited Conduct.

When a Formal Complaint is filed by a Complainant, but the alleged misconduct does not rise to a level of severity and pervasiveness such that it is prohibited expressly by Title IX, or does not occur within a University Program or Activity against a person in the United States, the Title IX Coordinator will dismiss the report or complaint for purposes of Title IX and evaluate whether the alleged conduct may constitute Prohibited Conduct. This dismissal may be appealed by either party.

Promptly after the dismissal, the Title IX Coordinator will refer the matter to the appropriate department and/or academic unit for consideration through the following channels and applicable policies:

### **A. For Employees:**

Prohibited Conduct as defined by this policy will be transferred to the Office of Equity and Inclusion when the matter involves an employee. The Office of Equity and Inclusion will adjudicate this matter pursuant to the [University's Equal Opportunity and Discriminatory Harassment Policy 1.3](#).

### **B. For Students:**

Prohibited Conduct as defined by this policy will be adjudicated in conformity with the Non-Title IX Prohibited Conduct Grievance Procedure located in [Appendix B](#) of this policy when the matter involves students.



## APPENDIX A: GRIEVANCE PROCEDURE FOR TITLE IX MISCONDUCT

### A. General Provisions

#### 1. Equitable Treatment of the Parties

The University's response will treat Complainants and Respondents equitably by offering Supportive Measures, by providing Remedies to a Complainant where a determination for Title IX Misconduct has been made against the Respondent, and by following the grievance procedure as set forth herein before imposing any disciplinary sanctions or other actions that are not Supportive Measures, against a Respondent.

#### 2. Presumed Not Responsible

The Respondent is presumed not responsible for the alleged Title IX Misconduct until a determination regarding responsibility is made at the conclusion of the grievance process.

#### 3. Reasonably Prompt Time Frames

The University will seek to resolve every investigation and any subsequent adjudication within 120 business days from the receipt of a Formal Complaint. The overall time frame may be extended for good cause as necessary so that the grievance process may be carried out in a thorough and comprehensive manner that ensures the integrity of the process. The reasons for extension of the time frame also include, but are not limited to: 1) compliance with a request from law enforcement; 2) accommodations to ensure the availability of witnesses; 3) consideration of exam periods, school breaks, vacations or inclement weather; 4) complexities of a specific case, including the number of witnesses and volume of information provided by the parties; and 5) other extenuating circumstances. The Title IX Coordinator for Students or the Title IX Coordinator for Faculty and Staff will notify the parties in writing of any extensions of the time frame.

Any calculation of days used in this Policy shall be in business days. To the extent a deadline falls on a University holiday, the deadline will be effective on the next business day.

### B. Preliminary Assessment of a Title IX Report or Formal Complaint

#### 1. Initial Assessment of a Formal Complaint

Written Notice: Upon receipt of a Formal Complaint, the Title IX Coordinators will provide the following written notice to the parties whose identities are known by the University:

- a) Notice of the University's Title IX grievance process, including an informal resolution process.
- b) Notice of the allegations potentially constituting Title IX Misconduct, including sufficient details known at the time and with sufficient time to prepare a response before any initial



interview. Sufficient details include: the identities of the parties involved in the incident, if known; the conduct allegedly constituting Title IX Misconduct; and the date and location of the alleged incident, if known.

The written notice will also include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence as described herein.

The written notice will additionally inform the parties of any provision in the University's Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

- c) Ongoing Notice Requirement: If, in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the initial Written Notice provided, the University will provide notice of the additional allegations to the parties whose identities are known.

Initial Assessment: The Title IX Coordinator shall make an initial assessment as to whether the report on its face alleges an act of Title IX Misconduct and whether the conduct is covered by this Policy. If the Title IX Coordinator determines in their assessment that the allegations would not constitute Title IX Misconduct, the University will dismiss the matter as described below.

Dismissal of Formal Complaints:

- a) Mandatory Dismissal

Mandatory Dismissal will occur if, in their discretion, after undertaking the assessment above, the Title IX Coordinator determines that the conduct alleged in the Formal Complaint (1) would not constitute Title IX Misconduct Conduct, even if true; (2) did not occur against a person in the United States; and (3) or did not take place in the programs or activities of the University.

Dismissal of a Formal Complaint on this basis does not preclude action under another applicable policy. In the event of dismissal, the Title IX Coordinators (for Students or for Faculty, and Staff) may refer the matter to another office or channel through a separate conduct procedure for consideration under another University policy. Matters will be channeled as follows:

- Matters in which the Respondent is a Student will be addressed pursuant to the grievance procedures outlined in [Appendix B](#) of this policy.
- Matters in which the Respondent is an Employee will be referred to the Department of Equity and Inclusion.

- b) The University may dismiss a Formal Complaint, or any allegations therein, at any time during the investigation or hearing, if:

- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- The Respondent is no longer enrolled or employed by the University; or



- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- The University retains discretion on a case-by-case basis to dismiss a Formal Complaint based on any of the above reasons. Just because one or all of the conditions above are satisfied, does not mean the University will automatically dismiss the Formal Complaint. Instead, the University will determine if such a decision is appropriate under the circumstances.

#### **Written Notice of Dismissal:**

Upon dismissal, the University will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties. The parties are entitled to appeal the dismissal under the appeal procedures set forth below.

#### **Appeal Procedure for Dismissals:**

Challenges to dismissals must be submitted in writing to the University Title IX Coordinator within seven (7) business days from the day the parties are notified about the dismissal. The University Title IX Coordinator will review the materials within five (5) business days of receipt of the challenge and may affirm or deny the original decision. The University Title IX Coordinator's determinations on dismissals are final and not appealable. Both parties shall receive simultaneous written notice of the outcome of the appeal.

## **2. Rights and Responsibilities with Parties**

The Title Coordinators, or their designees, will conduct an intake meeting to inform the Complainant and the Respondent of their rights and responsibilities, the prohibition against retaliation, further provide information about supportive measures, discuss the Title IX Misconduct allegations, and provide information about the investigative and adjudication processes.

## **3. Threat Assessment**

After the initial assessment, if the Title IX Coordinators determine the available information provides a rational basis for concluding that there may be an immediate threat to the Complainant or the University Community, the Title IX Coordinators will contact the Emory Threat Assessment Team ("TAT"). If TAT believes an immediate threat is present, they will determine what type of action should be taken.

For more information about the Threat Assessment Team, please see <http://emergency.emory.edu/threat-assessment/index.html>

## **4. Methods of Resolution**

Claims of Title IX Misconduct may be resolved by using an informal or a formal process. The Title IX Coordinator will discuss these two options for resolution during initial meetings with the Complainant and Respondent, as well as upon conclusion of the preliminary assessment process, if appropriate. Either party may request one of these forms of resolution, but for informal resolution, the University must approve that such a process is appropriate under the circumstances and both parties must provide voluntary, informed, written consent to the informal resolution process.



## **Informal resolution is not available to resolve allegations by a Student against an Employee.**

### **a) Informal Resolution**

Parties have the option of informally resolving complaints of alleged Title IX Misconduct. For the informal resolution process to commence, however, both parties must agree to submit to the informal resolution process. The University has the discretion to determine whether an informal resolution process is appropriate.

Prior to any informal resolution process, the University will provide the parties a written notice disclosing the allegations, the requirements of the informal resolution process, and any consequences resulting from participating in the process, including the records that will be maintained or could be shared. The written notice will also contain a consent form that will inform the Complainant and the Respondent that participation is voluntary and that either party can request to end informal resolution and pursue an investigative resolution. The written consent will also inform parties about how information gathered and utilized in the informal resolution process may be used in any other University process, including investigative resolution, if informal resolution ends and investigative resolution begins or resumes. In order to proceed with this method of resolution, both parties must sign the written consent.

#### **i. Administrative Resolution**

One type of informal resolution is administrative resolution. If the parties agree to submit to administrative resolution, then the Title IX Coordinator, or designee, works with each party separately to determine mutually agreeable outcomes. Both parties submit a written statement that includes basic facts about allegations and the parties' intended outcomes. After receiving the written statements, the appropriate Title IX Coordinator offers both parties the opportunity to review and respond to the statements in writing.

The Title IX Coordinator will review the written statements, including the parties' suggested outcomes, and will determine which outcome(s) should apply to the Respondent, taking into consideration the parties' feedback on the appropriate outcome(s). Some examples of outcomes include, but are not limited to: counseling, restitution, No Contact Orders, and educational programming. The factors pertinent to the determination of what outcome is appropriate include, but are not limited to: the nature and severity of the conduct at issue, the circumstances surrounding the violation, the impact of the misconduct upon the Complainant, and the interest of the University and its community. The Title IX Coordinator may meet with each party separately to obtain feedback on the appropriate outcome, to which the parties must agree. If the parties come to an agreement regarding the outcome, then the appropriate Title IX Coordinator will issue an Outcome Agreement Form via email to the parties, and the case will be closed.

Either party's failure to abide by the terms of the Outcome Agreement Form may subject them to disciplinary proceedings and sanctions under the applicable Code of Conduct or Standards of Conduct. Both parties retain the right to end the Administrative Resolution process at any time prior to signing the Outcome Agreement Form and to initiate the formal process.

**ii. Mediation**

A party may request mediation from the appropriate Title IX Coordinator at any stage of the process before a hearing is scheduled. Mediation will be used only with the consent of both the parties, and either party has the right to terminate the mediation process and resume the formal grievance process at any time.

The mediation process will typically commence within ten (10) business days after consent to mediate is received from both the Complainant and the Respondent and will continue until concluded or terminated either by one of the parties or the Department of Title IX. During mediation, the investigation and time frames will be stayed. If the mediation results in a resolution, the grievance process will be concluded, and the matter will be closed. If a resolution cannot be reached, the grievance process will proceed as it would have before the mediation process.

Failure by either party to adhere to the terms outlined in the mediation resolution may result in disciplinary action and sanctions under other University policies.

**iii. Restorative Justice Circles**

Restorative Justice Circles (“Circles”) are an example of an informal resolution process that provides an opportunity for community members to come together to address harmful behavior in a process that explores harms and needs, obligations, and necessary engagement. Circles bring all parties together to meet, talk about what happened, and settle on a plan to repair the harm. Rather than focusing on what policies have been violated, Circles instead help identify who has been hurt and what must be done to repair the harm.

**b) Formal Resolution**

The formal resolution process typically commences when a Complainant files a Formal Complaint and an investigation proceeds. The Written Notice will include information about the conduct process. Formal resolution may also commence when the Title IX Coordinator signs a Formal Complaint.

After providing Written Notice to the Complainant and Respondent, the Title IX Coordinator will appoint an investigator to gather all available information relevant to the allegations in the Formal Complaint. The Title IX Coordinator will share the Complainant’s and Respondent’s names and contact information with the investigator, who will reach out to the parties to introduce themselves. All investigators will have training in investigating and evaluating conduct prohibited under the Policy. The investigator will be impartial and unbiased.

The Title IX Coordinator may consolidate multiple Formal Complaints against a single Respondent or group of Respondents, or a single Complainant or group of Complainants, into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident(s). Where a Formal Complaint contains allegations that may implicate violations of other University policies, the Title IX Coordinator, in consultation with other University administrators, may, in their discretion, choose to consolidate those allegations with the Formal Complaint or refer those allegations to the appropriate University office for investigation under a



different applicable process. The decision to consolidate Formal Complaints is not subject to appeal.

## 1. Investigations

The University will investigate the allegations in any Formal Complaint not subject to dismissal. The burden of gathering evidence is on the University. Upon receipt of the Formal Complaint, the investigator will promptly begin the investigation. The investigator will meet with each party. During their investigation, the investigator will ask each party to provide information relating to the event(s) in question, and to provide a list of witnesses and/or any relevant documents or evidence. The Complainant, the Respondent, and the witness(es) are permitted to provide other relevant evidence to the investigator. Evidence includes any facts or information presented in support of an assertion and may include text messages, email exchanges, timelines, receipts, photographs, etc.

### i. **Rights of the Parties**

- a) **Advisor.** The Complainant and the Respondent may be accompanied to any meeting or hearing by the advisor of their choice through the course of the Title IX process. The advisor may be any person, including an attorney.

Complainants and Respondents may consult with their advisors in drafting any written submissions that are allowed under this Policy; the written submission, however, must be from the Complainant or Respondent and not the advisor. Advisors, if present, shall be restricted to consulting with their advisees. Advisors may not intervene in a meeting or address the investigator unless invited to do so. Any violation of University policies committed by an advisor may lead to the exclusion of that advisor from the process. That includes, but is not limited to, any act of retaliation or breach of privacy committed by an advisor.

Each party has a responsibility to notify their advisor of the time, date and location of any meeting or disciplinary proceeding. Proceedings will not be unduly delayed to accommodate an advisor.

The University offers trained Title IX advisors for Complainants and Respondents. The University Title IX advisors support the Complainant or Respondent through the investigation and adjudication process. Individuals interested in utilizing a University Title IX advisor should submit a request in writing to the appropriate Title IX Coordinator.

University Title IX advisors may guide and assist the Complainant or the Respondent by:

- Connecting them to support services as needed;
- Clarifying questions about the investigation and adjudication process;



- Assisting in the reporting of any instance of retaliation;
- Providing general support during what can be a stressful process;
- Attending meetings or proceeding throughout the investigation and adjudication process; and
- For Complainants – connecting them to the appropriate resources for the process of criminal reporting if the Complainant chooses to explore that option.

Whether they select a University or outside advisor, a party must provide either their advisor’s name or contact information to the Title IX Coordinator prior to the party’s first meeting with the investigator. A party must also inform the Title IX Coordinator if a new advisor is selected. A party wishing to bring an attorney as an advisor must inform the Title IX Coordinator at least five days in advance of the first meeting that the advisor will attend.

Parties may have one advisor for all matters leading up to a hearing and a different advisor for the hearing. If a party plans to change advisors for the hearing, the party must inform the Title IX Coordinator at least five days before the hearing.

If a party does not have an advisor for the hearing, the University will select an advisor, at no cost to the party, for the purpose of conducting cross-examination.

- b) Equal Opportunity to Present Evidence.** Both parties have an equal opportunity to present fact and expert witnesses and other inculpatory and exculpatory evidence.

**ii. Investigation Process**

- a) Investigator.** The Title IX Coordinator will designate an individual (who will not be the Title IX Coordinator) to conduct an Investigation of a Formal Complaint, when a decision is made not to dismiss such complaint and when Informal Resolution is not appropriate or both parties do not give voluntary, informed, written consent to Informal Resolution.
- b) Written Notice of Interviews, Meetings, or Hearings.** The University will send the parties and their advisors prior written notice of any investigative interviews, meetings, or hearings with sufficient time for the individual to prepare.
- c) Disclosure of Information.** Following the conclusion of the investigation, the University will send the parties and their advisors evidence directly related to the allegations in electronic format, at least 10 days prior to any hearing, for the parties to inspect, review, and respond to the evidence.
- d) Report of Investigation.** At the conclusion of the investigation, the investigator will prepare a draft Report of Investigation that fairly



summarizes relevant evidence, which they will provide to the Title IX Coordinator. After reviewing the draft Report of Investigation, the Title IX Coordinator for Students or the Title IX Coordinator for Faculty and Staff may direct the investigator to ask further clarifying questions of the Complainant, Respondent, or witness(es) to supplement the Report of Investigation. The Title IX Coordinator will then send to the parties and their advisors, the report of investigation, in electronic format, with at least 10 business days for the parties to respond. The information provided by the parties in response to the Report of Investigation will be included in the Report of Investigation as an appendix, and the Report will then be finalized. In the event the determination is made to dismiss the Formal Complaint (see below), that information will be included in the Report of Investigation.

## 2. Live Hearings

The University's grievance process shall provide for a live hearing. Within 5 business days of Final Report of Investigation, the Title IX Coordinator will select the date, time, and location of the hearing in consultation with the Hearing Officer, and will provide notice to both parties. The Hearing Officer will be trained in Title IX procedures and will preside over the hearing.

All parties shall be given at least 10 business days' notice in advance of the hearing date, absent agreement by the parties to shorten the time or extraordinary circumstances as determined by the Hearing Officer. Extraordinary circumstances may include, but are not limited to: fall/spring/summer/holiday breaks; circumstances in which critical witnesses are unavailable; and other extenuating circumstances.

Hearings may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either party, the University must provide for the hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.

- i. **Advisors at the Live Hearing.** If a party does not have an advisor present at the hearing, the University shall provide without fee or charge to that party, an advisor of the University's choice to conduct cross-examination on behalf of that party.
- ii. **Standard of Evidence.** The level of proof required to determine whether or not a Respondent is responsible for the allegations shall be preponderance of the evidence, i.e., it is more likely than not that alleged conduct occurred.
- iii. **Relevance.** Although the determination of relevance of testimony and information is in the discretion of the Hearing Officer, certain categories of evidence will rarely, if ever, be relevant. These include character evidence, polygraph and other generally unreliable or unproven scientific evidence, speculation, and the like. The Hearing Officer has broad discretion to determine the relevance of evidence.



iv. **Role of the Hearing Officer/Decision-Maker.**

- a) **Pre-Hearing Procedures and Ground Rules.** The Hearing Officer (and/or the Department of Title IX) may establish pre-hearing procedures relating to issues such as scheduling, hearing procedures, witness and advisor participation and identification, structure, advance determination of the relevance of certain topics, and other procedural matters. The Hearing Officer will communicate with the parties prior to the hearing with respect to these issues and establish reasonable, equitable deadlines for party participation/input.
- b) **Decorum.** The Hearing Officer also has wide discretion over matters of decorum at the hearing, including the authority to excuse from the hearing process participants who are unwilling to observe rules of decorum.
- c) **Determine Relevance of Questions.** At the hearing, both parties will be given the opportunity to ask cross-examination questions of the other party through their advisors; however, 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 Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Hearing Officer's relevance determinations at the hearing are not subject to further objection or discussion at the hearing, and failure to adhere to this rule may constitute a breach of the rules of decorum.
- d) **Provide Rape Shield Protections for Complainants.** The Hearing Officer will prohibit any questions and evidence about the Complainant's sexual predisposition or prior sexual behavior as not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- e) **Permit Cross-Examination.** At the live hearing, the Hearing Officer shall permit each party's advisor to ask the other party, and any witnesses, all relevant questions and follow-up questions, including questions challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor and never by a party personally, notwithstanding the discretion of the University to otherwise restrict the extent to which advisors may participate in the proceedings.
- f) **Exclude Statements, as Appropriate, in Reaching a Determination Regarding Responsibility.** If a party or witness does not submit to cross-examination at the live hearing, the Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions.



“Statements” for purposes of the hearing means factual assertions made by a party or witness. Statements might include factual assertions made during an interview or conversation, written by the individual making the assertions (including those found in a Formal Complaint), and memorialized in the writing of another (e.g., in an investigative report, police report, or medical record). Where evidence involves intertwined statements of both parties (e.g. a text message exchange or an email thread) and one party refuses to participate in the hearing or submit to questioning about the evidence while the other does participate and answer questions, the statements of only the participating party may be relied on by the Hearing Officer. A threat, verbal conduct that is itself harassment, or another non-factual assertion is not a “statement” for this purpose.

### **3. Hearing Procedures**

- i.** The Hearing Officer shall call the hearing to order and state the date and time.
- ii.** The Hearing Officer shall ask for identification of the parties attending the hearing for the record. If the Complainant and/or the Respondent fails to appear at the hearing, and such party was provided proper notice of the hearing as set forth above, then absent extenuating circumstances, the Hearing Officer will proceed to determine the resolution of the complaint.
- iii.** The Hearing Officer shall state the conditions of the hearing including:
  - 1) There shall be a single verbatim record, such as a tape recording, of all hearings (not including deliberations). The recording shall be the property of the University. Documentation of the proceedings, including the written decision, transcripts, and any audio recordings, are maintained in accordance with the applicable University document retention records. Reasonable care will be taken to create a quality audio recording and minimize technical problems; however, technical problems that result in no recording or an inaudible one cannot, by itself, serve as a basis to overturn an outcome upon appeal by a party.
  - 2) Rules of evidence applicable to courts of law will not apply.
  - 3) The hearing shall be non-adversarial in nature. The Hearing Officer shall be empowered to take all steps as necessary to preserve the non-adversarial character of the proceeding.
  - 4) The hearing shall be closed, with participation limited to the Respondent, Complainant, Advisors, and/or Witness(es). Witnesses will remain outside the hearing until asked to provide information.



- 5) The University may request that a non-party student or a faculty/staff member attend the hearing and give testimony relevant to the case under consideration.
  - 6) Both parties have the right to be present for the entire hearing, except for deliberations or recesses for the hearing board to discuss procedural issues. Neither party shall be required to be in the physical presence of the other. A party who wishes to participate electronically should submit a written request to the appropriate Title IX Coordinator no more than two (2) business days after receipt of the Notice of Hearing.
  - 7) All statements, testimony, and evidence shall be restricted to matters directly relevant to the case, as determined by the Hearing Officer.
  - 8) Each party is presumed to have good character; accordingly, character witnesses are not allowed.
  - 9) Any person disrupting, interfering with the hearing, or failing to abide by the rulings of the Hearing Officer may be excused from the hearing.
  - 10) The level of proof required to determine whether or not a Respondent is responsible for the allegations shall be by a preponderance of the evidence, *i.e.*, it is more likely than not that Title IX Misconduct occurred.
  - 11) The hearing and its final outcome shall be considered part of the Respondent's educational record or employment record as applicable, and as such shall be kept confidential, except as provided under federal and state law.
- iv. After the Hearing Officer states the conditions of the hearing, the Hearing Officer shall ask the Complainant and the Respondent if there are any objections to proceeding with the hearing. The Hearing Officer shall be solely responsible for deciding if such objections are reasonable and/or what measures should be taken to address them.
  - v. The Complainant and Respondent each shall be given the opportunity to provide brief opening statements to the Hearing Officer.
  - vi. The Complainant shall be given the opportunity to present evidence and/or call witnesses. The Hearing Officer shall have the first option of questioning the Complainant and/or witness(es), followed by the Respondent.
  - vii. The Respondent shall then be given the opportunity to present evidence and/or call witnesses. The Hearing Officer shall have the first option of



questioning the Respondent and/or witness(es), followed by the Complainant.

- viii. At the live hearing, the Hearing Officer shall permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility. The Hearing Officer will screen the questions submitted by the parties' advisors and only permit questions they deem appropriate and relevant to the case. Only relevant cross examination and other questions may be asked of a party or witness.
- o If the Hearing Officer declines a question requested by a party's advisor, he/she will indicate verbally in the hearing why the question was not asked and will make note of it in the formal hearing outcome form.
- i. The Complainant and Respondent each shall be given the opportunity to make a closing statement.
- j. The Hearing Officer shall conclude the hearing.
- k. The Hearing Officer shall enter closed deliberation.
- l. **Written Determination Regarding Responsibility.** The Hearing Officer shall issue a written determination regarding responsibility within 15 business days of the conclusion of the hearing, applying the preponderance of the evidence standard of evidence. The written determination shall include:
- 1) Identification of the allegations potentially constituting Title IX Misconduct;
  - 2) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination;
  - 3) Findings of fact supporting determination;
  - 4) Conclusions regarding application of the University's policy to the facts;
  - 5) The rationale for the result as to each allegation;
  - 6) Any disciplinary sanctions imposed (or Recommendation for Sanctions) on the Respondent;
  - 7) Whether Remedies will be provided to the Complainant; and 8) Information about how to file an appeal.

The Title IX Coordinator is responsible for effective implementation of any Supportive Measures and any Remedies.

- m. **Recording of the Hearing.** The University shall create an audio or audiovisual recording, or transcript, of any live hearing and make it available , upon request, to the parties for inspection and review.

#### 4. Sanctions

*The Respondent is a Student:*



Emory may impose a range of sanctions and protective measures following a final determination of a violation of this Policy. The sanctioning decision will be informed by the degree to which the behavior was intentional or irresponsible.

Factors pertinent to the determination of what sanction applies include, but are not limited to; the nature and severity of the conduct at issue, as well as the circumstances surrounding the violation; the impact of the misconduct upon the Complainant; the prior disciplinary history of the Respondent (shared with the Hearing Officer only upon a finding of responsibility); previous University responses to similar conduct; the impact on the Respondent of separating them from their education (when considering expulsion or suspension); and the interests of the University and its community. The sincerity demonstrated by the Respondent in their willingness to accept responsibility for their actions may be a mitigating factor in the determination of sanctions on a case-by-case basis. The broad range of sanctions for students includes, but is not limited to, the following:

- Revocation of degree; (if the Respondent graduates prior to the conclusion of the disciplinary process)
- Revocation of alumni privileges (if the Respondent graduates prior to the conclusion of the disciplinary process));
- Expulsion;
- Suspension for an identified time frame or until satisfaction of certain conditions, or both;
- Disciplinary probation (formal recognition that a student is not currently in good disciplinary standing with the University) for an identified time frame or until satisfaction of certain conditions, or both;
- Removal from student housing;
- Restriction from University premises;
- Dismissal or restriction from University employment;
- Temporary or permanent separation of the parties (by way of example only: change in classes, reassignment of residence, no contact orders, limiting geography where parties may go on campus) with additional sanctions for violating orders;
- Successful completion of educational or training programs;
- Successful completion of alcohol and other drug awareness and abuse prevention program;
- Counseling or mentoring;
- Removal from leadership/supervisory positions within the University community;
- Revocation of honors or awards;
- Loss of University privileges (i.e., using University athletic facilities, parking on campus, using the campus library, utilizing the dining hall);
- Community service;
- Reprimand;
- Restitution;
- Warning;
- Permanent or time-limited restrictions from participation in certain University programs or activities; and
- any other discretionary sanctions that are directly related to the violation or conduct and that are aimed at eliminating Title IX Misconduct, preventing its



recurrence, and addressing its effects on the Complainant and, if applicable, the University community.

If the Hearing Officer finds that there has been a violation of this policy, the Hearing Officer may consult with the Title IX Coordinator about the sanction level, but the Hearing Officer retains the sole discretion to impose the sanction. The Hearing Officer will provide a written determination that includes the appropriate sanction to the Title IX Coordinator for Students. The Title IX Coordinator for Students will send the determination simultaneously to the parties, along with information about how to file an appeal. The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. Sanctions and remedies determined by the Hearing Officer will not be imposed prior to the outcome becoming final.

*The Respondent is an Employee:*

Emory may impose a range of sanctions and protective measures following a final determination of a violation of this Policy. The sanctioning decision will be informed by the degree to which the behavior was intentional or irresponsible. Sanctions imposed on those individuals who have been found to be in violation of this Policy shall be commensurate with the severity and/or frequency of the conduct and shall be adequate and sufficient to prevent such conduct in the future. The broad range of sanctions for employees includes, but is not limited to, the following:

- An apology to the Complainant;
- A verbal or written reprimand;
- A requirement to attend remedial training;
- Restorative justice sessions;
- Appropriate workplace restrictions;
- Denial of a merit pay increase or other benefit;
- Denial of promotion;
- Reassignment;
- Suspension;
- Separation from the University; or
- Any other discretionary sanctions that are directly related to the violation or conduct and that are aimed at eliminating Title IX Misconduct, preventing its recurrence, and addressing its effects on the Complainant and, if applicable, the University community.

If the Hearing Officer finds that there has been a violation of this policy, the Title IX Coordinator will present the findings to the appropriate authority. After consulting with the Department of Title IX and others as needed, the appropriate authority will determine the sanction. Immediately thereafter, the appropriate authority must notify the Department of Title IX of the sanctions to be imposed upon the Respondent. Additionally, the appropriate authority must notify the Department of Title IX if the faculty or staff member is currently serving the University under a grant program.

The Title IX Coordinator for Faculty and Staff will then send the determination simultaneously to the parties, along with information about how to file an appeal. The



determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Failure to comply with any sanction will not only be considered a violation of this Policy, but also may be considered a violation of other University policies and will be referred to the appropriate office or division for handling.

*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 Third Party's relationship to the University. The Title IX Coordinator will determine the appropriate manner of resolution in accordance with the University's commitment to a prompt and equitable process and consistent with state and federal law, regulations, guidance, and this Policy.

If the Respondent is a University Employee and/or Student but acting outside their Employee/Student capacity, the Third-Party Procedures may apply. The Title IX Coordinator will determine which Procedures apply based upon the facts and circumstances, such as whether the Respondent's status as a Third Party or Employee/Student predominates in the context of the Prohibited Conduct.

## 5. Appeals

Both parties have the right to appeal the University's dismissal of a Formal Complaint, or any allegations therein, and the outcome of the hearing on the following grounds:

- Procedural irregularity that affected the outcome of the matter, which may include, but is not limited to, failure to objectively evaluate all relevant evidence, including inculpatory and exculpatory evidence;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
- The Title IX Coordinator, investigator(s), or members of the hearing board had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent that affected the outcome of the matter.

Appeals may be submitted in writing by a Complainant or Respondent to the appropriate University Title IX Coordinator. Appeals must be filed within seven (7) business days of the date that the Title IX Coordinator sends the parties the written determination.

Upon receipt of an appeal the University Title IX Coordinator shall:

- 1) Notify the other party in writing.
- 2) Give the non-appealing party seven (7) business days from the date the party receives notice to submit a written statement challenging the appeal.



- 3) Appoint an appellate review panel of three (3) members from a pool of trained faculty, staff, and graduate/professional students with appropriate knowledge and training to determine if there is a reasonable basis for changing the outcome of a hearing or the sanction imposed.

The appeals panel will review the materials within 10 business days of receipt of the appeal, examining all documentation of the hearing to determine if there is a reasonable basis for changing the outcome. The appeals panel will issue a written determination of the appeal and the rationale for the result, or may request that the Title IX Coordinator take the following steps:

- Affirm the original finding and sanction;
- Affirm the original finding but issue a new sanction, which may be of greater or lesser severity;
- Remand the case back to the hearing board or a new hearing board to correct a procedural or factual defect; or
- Dismiss the case if there was a procedural or factual defect that cannot be remedied by remand.

The appeal panel's determinations are **final and not appealable**. However, the outcome of a remanded case may again be appealed under this provision. Procedures on remand to the hearing board will be directed and communicated to the parties by the Title IX Coordinator and will, to the extent possible, comply with analogous, original time frames for the Hearing Board's resolution.

Both parties shall receive simultaneous written notice of the outcome of the appeal. The determination regarding responsibility becomes final on the date that the Title IX Coordinator provides the parties with the written decision of the result of the appeal.

This appeal process is specifically to challenge the outcomes in the Title IX process and does not alter or limit the ability for an employee to appeal an employment action under any other applicable policy.



## APPENDIX B

### NON-TITLE IX PROHIBITED CONDUCT PROCEDURE FOR STUDENTS

#### A. General Provisions

##### 1. Equitable Treatment of the Parties

The University's response shall treat Complainants and Respondents equitably by offering Supportive Measures, by providing Remedies to a Complainant where a determination for Prohibited Conduct has been made against the Respondent, and by following the grievance procedure as set forth herein before imposing any disciplinary sanctions or other actions that are not Supportive Measures, against a Respondent.

##### 2. Reasonably Prompt Time Frames

The University will seek to resolve every investigation and any subsequent adjudication within 120 days from the receipt of a complaint. The overall time frame may be extended for good cause as necessary so that the grievance process may be carried out in a thorough and comprehensive manner that ensures the integrity of the process. The reasons for extension of the time frame also include, but are not limited to: compliance with a request from law enforcement; accommodations to ensure the availability of witnesses; consideration of exam periods, school breaks, vacations or inclement weather; complexities of a specific case, including the number of witnesses and volume of information provided by the parties; and other extenuating circumstances. The Non-Title IX Conduct Official will notify the parties in writing of any extensions of the time frame.

To the extent a deadline falls on a University holiday, the deadline will be effective on the next business day.

#### B. Preliminary Assessment of a Prohibited Conduct Report or Complaint

##### 1. Intake Meeting with Complainant and Respondent

The Title IX Coordinator for Students, or designee, will conduct an intake meeting to inform the Complainant and the Respondent of their rights and responsibilities, the prohibition against retaliation, further provide information about supportive measures, discuss the Prohibited Conduct allegations and information about the investigative and adjudication processes.

##### 2. Initial Assessment of a Formal Complaint

Written Notice. Upon receipt of a Formal Complaint, the Title IX Coordinator for Students must provide the following written notice to the parties whose identities are known by the University:

- i. Notice of the University's Prohibited Conduct grievance process, including an informal resolution process.



- ii. Notice of the allegations potentially constituting Prohibited Conduct, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include: the identities of the parties involved in the incident, if known; the conduct allegedly constituting Prohibited Conduct; and the date and location of the alleged incident, if known.

## C. Methods of Resolution

Prohibited Conduct may be resolved by using an informal or a formal process. The Title IX Coordinator for Students will discuss these two options for resolution during initial meetings with the Complainant and Respondent, as well as upon conclusion of the preliminary assessment process, if appropriate. Either party may request one of these forms of resolution, but for informal resolution, both parties must agree to submit to the informal resolution process.

### 1. Informal Resolution

Parties have the option of informally resolving complaints of alleged sexual misconduct. For the informal resolution process to commence, however, both parties must agree to submit to the informal resolution process. The University has the discretion to determine whether the nature of the reported conduct is appropriate for informal resolution. With the informal resolution process, the Respondent is never charged with a Policy violation and is not found responsible for a Policy violation; accordingly, expulsion or suspension of the Respondent are not potential outcomes in a matter that has been decided via an informal resolution process.

If the parties agree to submit to alternative resolution, then the Department of Title IX will conduct a short investigation of the matter; the Title IX Coordinator for Students will meet with the parties and collect information relevant to the matter, but the Coordinator may not necessarily speak to any witnesses identified by either party.

Both parties retain the right to end the informal resolution process at any time prior to signing the Outcome Agreement Form and initiate the formal process.

Two examples of informal resolution processes, mediation and restorative justice circles, are described in further detail below.

#### a) Administrative Resolution

One type of informal resolution is administrative resolution. If the parties agree to submit to administrative resolution, then the Title IX Coordinator works with each party separately to determine mutually agreeable outcomes. Both parties submit a written statement that includes basic facts about allegations and the parties' intended outcomes. After receiving the written statements, the Title IX Coordinator for Students offers both parties the opportunity to review and respond to the statements in writing.

The Title IX Coordinator will review the written statements, including the parties' suggested outcomes, and will determine which outcome(s) should apply to the Respondent, taking into consideration the parties' feedback on the appropriate outcome(s). Some examples of outcomes include, but are not limited to: counseling,



restitution, No Contact Orders, and educational programming. The factors pertinent to the determination of what outcome is appropriate include, but are not limited to: the nature and severity of the conduct at issue, the circumstances surrounding the violation, the impact of the misconduct upon the Complainant, and the interest of the University and its community. The Title IX Coordinator may meet with each party separately to obtain feedback on the appropriate outcome, to which the parties must agree. If the parties come to an agreement regarding the outcome, then the appropriate Title IX Coordinator will issue an Outcome Agreement Form via email to the parties, and the case will be closed.

Either party's failure to abide by the terms of the Outcome Agreement Form may subject them to disciplinary proceedings and sanctions under their school's Code of Conduct. Both parties retain the right to end the Administrative Resolution process at any time prior to signing the Outcome Agreement Form and to initiate the formal process.

**b) Mediation**

A party may request mediation from the Title IX Coordinator for Students at any stage of the process before a hearing is scheduled. Mediation will be used only with the consent of both the parties, and either has the right to terminate the mediation process and resume the regular disciplinary process at any time.

The mediation process will typically commence within ten (10) business days after consent to mediate is received from both the Complainant and the Respondent and will continue until concluded or terminated either by one of the parties or the Department of Title IX. During mediation, the investigation and time frames will be stayed. If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed. If a resolution cannot be reached, the disciplinary process will proceed as it would have before the mediation process.

Failure by either party to adhere to the terms outlined in the mediation may result in disciplinary action and sanctions under the Conduct Code for the school in which the offending party is enrolled.

**c) Restorative Justice Circles**

Restorative Justice Circles ("Circles") are an example of an informal resolution process that provides an opportunity for community members to come together to address harmful behavior in a process that explores harms and needs, obligations, and necessary engagement. Circles bring all parties together to meet, talk about what happened, and settle on a plan to repair the harm. Rather than focusing on what policies have been violated, Circles instead help identify who has been hurt and what must be done to repair the harm.

**2. Formal Resolution**

When a matter is dismissed under a Title IX Grievance procedure, the Title IX Coordinator for Students will notify the Complainant and the Respondent, in writing, that the process will proceed under the procedures set forth in this section.

After providing notice to the Complainant and Respondent, the Title IX Coordinator for Students will assign an investigator to promptly and thoroughly investigate the complaint to determine whether a violation of the Policy has occurred.

Please Note: The Department of Title IX may consolidate multiple reports against a single Respondent or group of Respondents into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident(s).

**a) Investigation and Adjudication Resolution Process**

The University's response to the alleged discrimination will depend upon the severity and pervasiveness of the alleged conduct, which may be determined by the existence of prior incidents of harassment or discrimination. Depending upon the severity of the offense, however, a single violation of this Policy may be sufficient to support a violation.

Upon receipt of a complaint, the Title IX Coordinator for Students will assign an investigator to the case. The investigator will investigate, within 120 business days, the circumstances of the allegations. However, if additional time is needed to conduct a thorough investigation, DTIX may, at its discretion, extend the time for completing the investigation as reasonably necessary. In this case, DTIX will notify the Complainant and the Respondent of the extension.

The investigation will include interviews with the Complainant, Respondent, and any material witnesses identified, as well as a review of any documents or other evidence. The Complainant and Respondent will be kept apprised of the conduct of the investigation and will be given the opportunity to provide any additional relevant information to the investigator, including the names of additional witnesses to contact and/or additional documents to review before the investigation is closed.

The level of proof required to determine whether a Respondent is responsible for the allegations shall be by a preponderance of the evidence, i.e., it is more likely than not that alleged conduct occurred.

After the investigation, the investigator will submit a written Report of Investigation to the Complainant and Respondent detailing the information that was collected and will allow them to submit written statements responding to or clarifying information found in the report; any material submitted by the parties will be attached to the Report of Investigation as appendices. The parties shall have five (5) business days to supplement the report. The investigator shall finalize the report, including a determination of whether, based upon a preponderance of the evidence, a policy violation occurred and if so, a sanction recommendation.

Upon finalizing the Report of Investigation, the investigator shall submit the report to the Title IX Coordinator for Students for the sole purpose of making a final determination on the recommended sanction.

The Title IX Coordinator for Students will provide a written notice of Final Outcome to both Complainant and Respondent within seven (7) business days after receiving the final Report of Investigation.



The final written determination will state whether, based on DTIX's investigation, there was a violation of this Policy, imposed sanctions, and information regarding parties' right to appeal. The Complainant and Respondent will be promptly notified of the final determination. The Department of Title IX shall have independent authority to impose sanctions for students.

## b) Sanctions

Emory may impose a range of sanctions and protective measures following a determination of a violation of this Policy. The sanctioning decision will be informed by the degree to which the behavior was intentional or irresponsible.

Factors pertinent to the determination of what sanction applies include, but are not limited to, the nature and severity of the conduct at issue, as well as the circumstances surrounding the violation; the impact of the misconduct upon the Complainant; the prior disciplinary history of the Respondent (shared with the hearing board only upon a finding of responsibility); previous University responses to similar conduct; the impact on the Respondent of separating them from their education (when considering expulsion or suspension); and the interests of the University and its community. The sincerity demonstrated by the Respondent in their willingness to accept responsibility for their actions may be a mitigating factor in the determination of sanctions on a case-by-case basis. Although sanctions are determined based upon the facts of each case, students found responsible for violating this Policy, should be prepared to be temporarily or permanently separated from the University.

The broad range of sanctions includes, but is not limited to, the following:

- Revocation of degree;
- Revocation of alumni privileges (if the Respondent graduates prior to the conclusion of the disciplinary process);
- Expulsion;
- Suspension for an identified time frame or until satisfaction of certain conditions, or both;
- Disciplinary probation (formal recognition that a student is not currently in good disciplinary standing with the University) for an identified time frame or until satisfaction of certain conditions, or both;
- Removal from student housing;
- Restriction from University premises;
- Dismissal or restriction from University employment;
- Temporary or permanent separation of the parties (by way of example only: change in classes, reassignment of residence, no contact orders, limiting geography where parties may go on campus) with additional sanctions for violating orders;
- Successful completion of educational or training programs;
- Successful completion of alcohol and other drug awareness and abuse prevention program;
- Counseling or mentoring;
- Removal from leadership/supervisory positions within the University community;
- Revocation of honors or awards;



- Loss of University privileges (i.e., using University athletic facilities, parking on campus, using the campus library, utilizing the dining hall);
- Community service;
- Reprimand;
- Restitution;
- Warning; and
- Any other discretionary sanctions that are directly related to the violation or conduct and that are aimed at eliminating sexual misconduct, preventing its recurrence, and addressing its effects on the Complainant and, if warranted, the University community.

The University reserves the right to place a hold on the diploma, degree certification, official transcripts, or registration of the Respondent even though he or she may have completed all academic requirements. The diploma, degree certification, official transcripts, or registration may be withheld until any allegations of misconduct are resolved and/or sanctions as well as other conduct obligations are completed.

### c) Appeals

Both parties shall have the right to appeal the outcome on any of the following grounds:

- 1) To consider new information, sufficient to alter the decision, or other relevant facts not brought out in the investigation because such information was not known or knowable to the appealing party during the investigation.
- 2) To allege a significant procedural error within the investigative process that may have substantially impacted the fairness of the investigation, the decision, and/or the sanction.
- 3) To allege that the sanction imposed is overly excessive or insufficient based upon the weight of the information considered by Title IX Coordinator for Students.

Appeals must be submitted in writing to University Title IX Coordinator within seven (7) business days from the day the parties are notified about the outcome of the case. Upon receipt of an appeal, the University Title IX Coordinator will send a copy of the appeal to the other party, who will have seven (7) business days to file a response, if the party chooses to do so.

The University Title IX Coordinator will appoint an appellate review panel of three (3) members from a pool of trained faculty, staff, and graduate/professional students with appropriate knowledge and training whose job it is to determine if there is a reasonable basis for changing the outcome or the sanction imposed. The appeals panel will review the materials within ten (10) business days of receipt of the appeal, examining the Report of Investigation and appeal(s) to determine if there is a reasonable basis for changing the outcome or sanction. The appeals panel will issue a written determination of the appeal, or may request that DTIX takes the following steps:

- Affirm the original finding and sanction;



- Affirm the original finding but issue a new sanction, which may be of greater or lesser severity;
- Remand the case back to the Department of Title IX to correct a procedural or factual defect; or,
- Dismiss the case if there was a procedural or factual defect that cannot be remedied by remand.

The appeal panel's determinations are final and not appealable. Both parties shall receive simultaneous written notice of the outcome of the appeal.

This appeal process is specifically to challenge the outcomes in the Prohibited Conduct process and does not alter or limit the ability for an employee to appeal an employment action under any other applicable policy.



**APPENDIX C — SEXUAL MISCONDUCT RESOURCES  
(ATLANTA AND OXFORD CAMPUSES)**

**ATLANTA CAMPUS**

	<b>Seeking information and support</b>	<b>Obtaining counseling</b>	<b>Seeking accommodations or interim measures</b>	<b>Bringing formal Title IX or criminal charges</b>
<b>Counseling and Psychological Services (CAPS)</b> 404-727-7450 <a href="https://counseling.emory.edu">https://counseling.emory.edu</a> <i>*Confidential Resource*</i>	X	X		
<b>Student Health Services</b> 404-727-7551 (press 1) <a href="http://studenthealth.emory.edu/hs/">http://studenthealth.emory.edu/hs/</a> <i>*Confidential Resource*</i>	X	X		
<b>Office of Spiritual and Religious Life (University Chaplain Gregory McGonigle)</b> 404-727-6226 or 404-727-4070 <a href="http://www.religiouslife.emory.edu/">http://www.religiouslife.emory.edu/</a> <i>*Confidential Resource*</i>	X	X		
<b>Emory Decatur Hospital</b> 2701 North Decatur Road Decatur, GA 30033 404-501-1000 <i>*Confidential Resource*</i>	X	X		
<b>Interim Title IX Coordinator for Students (Danica Myers)</b> 404-727-3180 <a href="http://equityandinclusion.emory.edu/titleix/index.html">http://equityandinclusion.emory.edu/titleix/index.html</a>	X		X	X
<b>Interim Title IX Coordinator for Faculty and Staff (Danica Myers)</b> 404-727-3180 <a href="http://equityandinclusion.emory.edu/titl eix/index.html">http://equityandinclusion.emory.edu/titl eix/index.html</a>	X		X	X



<b>The Office of Respect</b> – for sexual assault survivors (470) 270-5360 <a href="http://respect.emory.edu/">http://respect.emory.edu/</a>	X			X
<b>Emory Police Department</b> 404-727-6111 <a href="http://police.emory.edu/">http://police.emory.edu/</a>	X			X
<b>Deputy Title IX Coordinators</b> <a href="http://equityandinclusion.emory.edu/titleix/coordinators.html">http://equityandinclusion.emory.edu/titleix/coordinators.html</a>	X		X	X
<b>Department of Equity and Inclusion</b> 404-727-9867 <a href="http://equityandinclusion.emory.edu/about/index.html">http://equityandinclusion.emory.edu/about/index.html</a>	X		X	X
<b>Student Case Management and Intervention Services</b> <a href="http://success.emory.edu/index.html">http://success.emory.edu/index.html</a>	X			
<b>The University Ombuds Office</b> <a href="https://ombuds.emory.edu/">https://ombuds.emory.edu/</a>	X			
<b>Faculty and Staff Assistance Program (FSAP)</b> <a href="http://www.fsap.emory.edu/">http://www.fsap.emory.edu/</a>	X	X		

**OXFORD CAMPUS**

	Seeking information and support	Obtaining counseling	Seeking accommodations or interim measures	Bringing a formal Title IX complaint or criminal charges
<b>Counseling and Career Services (CCS)</b> 770-784-8394 <a href="https://oxford.emory.edu/life/campus_life/counseling_career.html">https://oxford.emory.edu/life/campus_life/counseling_career.html</a> <i>*Confidential Resource*</i>	X	X		
<b>Student Health Services</b> 770-784-8376 <a href="https://oxford.emory.edu/life/campus_life/student_health_services.html">https://oxford.emory.edu/life/campus_life/student_health_services.html</a> <i>*Confidential Resource*</i>	X	X		



<p><b>Office of Spiritual and Religious Life (Chaplain Lyn Pace)</b> 770-784-8392  <a href="https://oxford.emory.edu/life/campus_life/religious.html">https://oxford.emory.edu/life/campus_life/religious.html</a>  <i>*Confidential Resource*</i></p>	X	X		
<p><b>Emory Hillandale Hospital (Lithonia)</b>                  280 DeKalb Medical Parkway                  Lithonia, GA 30058                  404-501-8000  <i>*Confidential Resource*</i></p>	X	X		
<p><b>Interim Title IX Coordinator for Students (Danica Myers)</b> 404-727-3180  <a href="http://equityandinclusion.emory.edu/title-ix/index.html">http://equityandinclusion.emory.edu/title-ix/index.html</a></p>	X		X	X
<p><b>Interim Title IX Coordinator for Faculty and Staff (Danica Myers)</b> 404-727-3180  <a href="http://equityandinclusion.emory.edu/title-ix/index.html">http://equityandinclusion.emory.edu/title-ix/index.html</a></p>	X		X	X
<p><b>Health Educator &amp; Coordinator of Student Support</b>                  Brittany McDermott 770-784-8482  <a href="mailto:brittany.mcdermott@emory.edu">brittany.mcdermott@emory.edu</a></p>	X		X	X
<p><b>Emory Police Department</b>                  770-784-8377  <a href="http://police.emory.edu/">http://police.emory.edu/</a></p>	X			X
<p><b>Deputy Title IX Coordinator (Oxford)</b>                  Rhiannon Hubert 770-784-8445  <a href="mailto:rhiannon.hubert@emory.edu">rhiannon.hubert@emory.edu</a></p>	X		X	X
<p><b>Office of International Student Programs</b>                  770-784-8702  <a href="https://oxford.emory.edu/life/campus_life/international_students.html">https://oxford.emory.edu/life/campus_life/international_students.html</a></p>	X			



**Other Resources (Available to Atlanta and Oxford Campuses)**

**All Emergencies (any campus/location):** 9-1-1

**Emory Police Department TIPS line** (allows for anonymous and confidential reporting; *not an emergency number*): 404-727-TIPS (8477) <https://police.emory.edu/services/index.html>

**Emory Trust Line** (allows for anonymous and confidential reporting 24/7):

1-888-550-8850

<http://iad.emory.edu/compliance/trustline/index.html>

**Emory Public Safety's Victim and Survivor Resources:** <http://campserv.emory.edu/public-safety/police/services/survivor-resources.html>

**DeKalb County Day League** (formerly DeKalb Rape Crisis Center; services DeKalb, Newton, and Rockdale Counties):

404-377-1428 for 24-hour confidential crisis line / 404-377-1429 for free counseling service

<http://www.dayleague.org/>

**Georgia's 24-hour Domestic Violence Hotline:** 800-334-2836

**Georgia Legal Aid:** <https://www.georgialegalaid.org/>

**Georgia Network to End Sexual Assault (GNESA):** <http://www.gnesa.org/>

**Center for Changing our Campus Culture (nationwide resource):** <http://changingourcampus.org/>

**U.S. Department of Education, Office of Civil Rights (OCR):** Complaints of discrimination, harassment, and retaliation may be directed at OCR. For more information, please see <https://www2.ed.gov/about/offices/list/ocr/index.html>.

**APPENDIX D DEPUTY TITLE IX**

**COORDINATORS**

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**Nell Hodgson Woodruff School of Nursing**

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**APPENDIX E**

**CONSIDERATIONS OF INCAPACITATION**

For determining whether incapacitation impacts consent, the following explanations should be considered as guideposts for determinations; however, not all factors need to be present to support a finding:

- The question of incapacitation does not need to rely on medical expertise/judgment or the legal standard of intoxication. The determination of incapacitation from drugs or alcohol can be properly based on objective and reasonably apparent indications.
- Incapacitation is a state beyond impairment or intoxication and therefore it is important to identify how and to what extent a person’s ability to make a decision about sexual activity was affected.
- Incapacitation, by definition, means that a person’s decision-making ability was affected, so much so that a person does not have awareness of consequences; have the ability to make informed, rational judgments; or the capacity to appreciate the nature and quality of the act.
- Mental and/or physical helplessness may result in incapacity. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one’s own conduct. Physically helpless means a person is physically unable to verbally or otherwise communicate consent or unwillingness to an act.



- Consider whether the person against whom Prohibited Conduct is alleged to have occurred was asleep, unconscious, or unaware that sexual activity was occurring.
- Consider whether there were common and obvious warning signs that show that a person may have been incapacitated during the relevant time frame or approaching incapacitation. Although every individual may show signs of incapacitation differently, and the impact of alcohol and other drugs varies from person to person, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence.
- 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?” (Who, what, where, when, why?)
- Whether sexual activity with an incapacitated person constitutes Prohibited Conduct may depend on whether the Respondent knew or should have known of the Complainant’s incapacitation. What the Respondent should have known will be assessed based on objective and reasonably apparent indications when viewed from the perspective of a sober, reasonable person in the Respondent’s position, unless the evidence shows that the Respondent subjectively understood that the Complainant was incapacitated.
- That a Respondent may in fact have been unaware of the Complainant’s incapacity is irrelevant to this analysis, particularly where the Respondent’s failure to appreciate the Complainant’s incapacitation resulted from the Respondent’s failure to take reasonable steps to determine the Complainant’s incapacitation or where the Respondent’s own incapacitation (from alcohol or drugs) caused the Respondent to misjudge the Complainant’s incapacity.

**Related Links**

- [Policy 1.3: Equal Opportunity and Discriminatory Harassment Policy](http://policies.emory.edu/1.3)
- [Policy 4.119: Mandated Child Abuse Reporting](http://policies.emory.edu/4.119)
- [Policy 8.16: Title IX Reporting Exception for Research](http://policies.emory.edu/8.16)

**Contact Information**

Subject	Contact	Phone	Email
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Clarification of Policy	Nicole Babcock University Title IX Coordinator	404-727-8205	<a href="mailto:nicole.babcock@emory.edu">nicole.babcock@emory.edu</a>
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**Revision History**

- Version Published on: January 21, 2022: updated Coordinators’ contact information and links in Appendix C
- Version Published on: June 29, 2021: updated Coordinators’ contact information
- Version Published on: March 15, 2021: removed the Office of Respect’s semi-confidential source status
- Version Published on: August 14, 2020: updated policy to comply with the U.S. Department of Education’s New Title IX Regulations