UNIVERSITY OF Nebraska

UNK N N O

Executive Memorandum No. 38

Procedures for Sexual Misconduct Reports against Students

Pursuant to Regents' Policy 2.1.8(B)(3), the President shall implement procedures to addressthe rights of all individuals involved in cases of sexual misconduct. Detailed in the Addendum attached hereto are the procedures to be followed in response to allegations of student sexual misconduct.

Dated this 11th day of November 2021.

Ted Carter, President

Reference: August 14, 2020
Amended November 11, 2021

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Response to Allegations of Student Sexual Misconduct

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Response to Allegations of Student Sexual Misconduct

A. Introduction

These Procedures supplement the University of Nebraska Sexual Misconduct Policy and describe the grievance process related to reports of sexual misconduct against students.

B. Prohibited Conduct Definitions

For purposes of addressing complaints of sexual misconduct against or by University students and employees, the following uniform definitions shall be used by the University.

1. "Dating violence" means violence committed by a person—

    a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and

    b. where the existence of such a relationship shall be determined based on a consideration of the following factors:

        i. The length of the relationship;

        ii. The type of relationship; and

        iii. The frequency of interaction between the persons involved in the relationship.

2. "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 the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

    Domestic violence includes domestic assault. Under Nebraska law, a person commits domestic assault if the person (i) intentionally and knowingly causes bodily injury to their intimate partner; (ii) threatens an intimate partner with imminent bodily injury; or (iii) threatens an intimate partner in a menacing manner.

    Under Nebraska law an "intimate partner" means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or where involved in a dating relationship.

3. "Retaliation" means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the Sexual Misconduct Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Sexual Misconduct Policy.

4. "Sexual assault" means an offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

    a. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

    b. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of the victim's age or because of the victim's temporary or permanent mental incapacity.

    c. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

    d. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

5. "Sexual exploitation" includes, but is not limited to: prostituting another person; non-consensual visual or audio recording of sexual activity; non-consensualdisplay or distribution of photos, images or information of an individual's sexualactivity or intimate body parts; non-consensual voyeurism; coercing someone against their will to engage in sexual activity, or; knowingly transmitting sexually transmitted disease (STD) without disclosing STD status.

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

    a. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;

    b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity;

c. Sexual assault (see definition herein);

d. Dating violence (see definition herein);

e. Domestic violence (see definition herein); or

f. Stalking (see definition herein).

To be considered sexual harassment for the purposes of Title IX, the conduct must meet the additional requirements of occurring in the University's education program or activity and against a person in the United States.

For employees, sexual harassment also means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment, sufficiently severe or pervasive to alter the conditions of the individual's employment and create an abusive working environment.

7. "Sexual misconduct" includes dating violence, domestic violence, rape, sexual assault, sexual harassment, sexual exploitation, and stalking.

8. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

   a. fear for their safety or the safety of others or

   b. suffer substantial emotional distress.

C. Related Definitions

1. "Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. ''Notice'' as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

2. "Bodily injury" shall mean physical pain, illness, or any impairment of physical condition.

3. "Confidentiality" means that the University will not disclose the names of individuals involved in sexual misconduct cases to others except on a need to know basis or as required by law. The University will instruct employees and students about the requirement not to disclose confidential information. Confidentiality is not the same as anonymity, where an individual is not named or personally

identified.

4. "Consent" is a freely and affirmatively communicated willingness to participate in particular sexual activity or behavior, expressed either by words or clear, unambiguous actions.

   a. Consent can be withdrawn at any time, as long as the withdrawal of consent is clearly communicated by words or actions.

   b. Consent cannot be coerced or compelled by force, threat, deception, or intimidation.

   c. Consent cannot be given by someone who is incapacitated or does not have the legal capacity to consent, as defined below in the definition of "incapacitated".

   d. Consent cannot be assumed based on silence, the absence of "no" or "stop," the existence of a prior or current relationship, or prior sexual activity.

   There are some persons who Nebraska law presumes are incapable of consenting to sexual contact or penetration as defined by Nebraska law by an actor by reason of their age. Under Nebraska law an actor nineteen years of age or older may not subject a person under the age of sixteen years of age to sexual penetration, or a person under fifteen years of age to sexual contact.

5. "Crimes of violence" are those offenses that involve force or threat of force, including murder and non-negligent manslaughter, rape, robbery, and aggravated assault.

6. "Education program or activity" includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

7. "Force or threat of force" means (a) the use of physical force which overcomes the person's resistance or (b) the threat of physical force, express or implied, against the person or a third party that places the person in fear of death or in fear of serious personal injury to the person of a third party where the person reasonably believes that the actor has the present or future ability to execute the threat.

8. "Formal Complaint" means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual misconduct, including sexual harassment under Title IX, against a Respondent and requesting that the University investigate the allegation of sexual misconduct. As used in this paragraph, the phrase

"document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) 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 otherwise a party under the Sexual Misconduct Policy and will comply with the requirements of the Sexual Misconduct Policy.

9. "Incapacitated" means an individual is unable to understand the facts, nature, extent, or implications of the situation due to drugs, alcohol, a mental disability, being asleep, unconscious or in any other state where the individual is unaware that sexual contact is occurring, or based on their age (pursuant to Nebraska law). With respect to alcohol and drugs, intoxication and/or impairment is not presumptively equivalent to incapacitation. Consent does not exist when the individual initiating sexual activity knew or should have known of the other individual's incapacitation.

   There are some persons who Nebraska law presumes are incapable of consenting to sexual contact or penetration as defined by Nebraska law by an actor by reason of their age. Under Nebraska law an actor nineteen years of age or older may not subject a person under the age of sixteen years of age to sexual penetration, or a person under fifteen years of age to sexual contact.

10. "In violation" means that it is more likely than not that a Respondent has committed one or more acts of sexual misconduct. In other words, a preponderance of the evidence standard must be used to find sexual misconduct.

11. "May" is used in the permissive sense.

12. "Not in violation" means that it is more likely than not that a Respondent did not commit one or more acts of sexual misconduct.

13. "Past sexual behavior" means a person's sexual behavior other than when the sexual misconduct is alleged to have occurred.

14. "Private body parts" means the genital area, groin, inner thighs, buttocks, or breasts.

15. "Preponderance of the Evidence" is the standard of evidence the University uses to determine whether the Respondent violated the Sexual Misconduct Policy. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all the reasonable evidence and reasonable inferences from the evidence, that the Respondent violated the Sexual Misconduct Policy.

16. "Relevant evidence" means evidence that has any tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining the action.

17. "Remedies" are measures designed to restore or preserve equal access to the University's education program or activity. Such remedies may include the same supportive measures that are already being provided to the Complainant; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

18. "Serious personal injury" means great bodily injury or disfigurement, extreme mental anguish or mental trauma, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.

19. "Shall" is used in the imperative sense.

20. "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

21. "University" means University of Nebraska.

22. "University Day" means a weekday on which the campus offices are open. Check the academic calendar on the campus website to determine the days on which the campus offices are closed.

D. Roles

Individuals play a number of important roles within the University's Sexual Misconduct investigation and adjudication process. The following are descriptions of each of those roles within the process.

1. "Advisor" means any individual who provides the Complainant or the Respondent support, guidance, or advice and may accompany the Complainant or the

Respondent to any meeting or grievance proceeding, such as a meeting in the investigation or the Hearing. The Complainant and the Respondent may choose their advisor, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of the advisor for either the Complainant or the Respondent in any meeting or grievance proceeding; however, the University mayestablish restrictions regarding the extent to which the advisor may participate in the proceeding. If a Complainant or the Respondent does not have an advisor present at a live hearing, the University will provide without fee or charge to that party, an advisor of the University's choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

Other than to conduct cross-examination as described above, the parties' respective advisors may not speak on behalf of the parties during the hearing and may not directly participate in any aspect of the hearing. The Complainant or the Respondent, however, may consult with their respective advisors during a meeting or the hearing. The Hearing Board Chair may limit the length and frequency of consultations so that they do not unreasonably delay the hearing or unreasonably interfere with the presentation of evidence.

2. "Campus security authority" (CSA) is a University official charged with the duty to report incidents of sexual misconduct to the person in charge of Clery Act reporting. All officers of a university police department or a campus security department are campus security authorities, but there are other CSAs outside of those offices. The Office of the President and each Chancellor shall prepare and publicize a list of designated campus security authorities.

3. "Complainant" means any individual who is alleged to be the victim of conduct that could constitute sexual misconduct. A Complainant may also be referred to asa "party".

4. "Conduct Officer" is a University employee who has responsibilities related to student conduct and usually presents the University's information during a hearing.

5. "Decision-maker" is an individual who makes a determination as part of the Sexual Misconduct grievance process. There may be more one or more decision-maker(s) involved in any given proceeding, for example, a hearing or appeal. The decision-maker(s) will not be the same person(s) as the Title IX Coordinator or the Investigator(s) and will issue a written determination regarding responsibility. Decision-makers may include Hearing Officers, Appeals Officers, and Hearing Board Members.

6. "Hearing Board" is a subset of the University Conduct Board. The Hearing Board will be composed of an odd number of three or more members, including one (1) student member.

7. "Hearing Facilitator" is a University official designated to coordinate a Hearing.

8. "Investigator" means a University official authorized to investigate of complaints of sexual misconduct.

9. "Member of the University community" includes any individual who is a student, staff or faculty member, University official, or any other individual employed by, or acting on behalf of, the University. An individual's status in a particular situation shall be determined by the Investigator or Title IX Coordinator.

10. "Official with Authority" means an official of the University who has authority to institute corrective measures for sexual misconduct on behalf of the University. The following individuals are Officials with Authority: President, Chancellors; Provost/Vice Presidents and Vice Chancellors; and UNCA and Campus Title IX Coordinators.

11. "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct. A Respondent may also be referred to as a "party".

12. "Student" has the same meaning as used in the Student Code of Conduct. The term "student" includes all persons enrolled at the University, including online and non-degree seeking individuals. A student's enrollment ends when the student graduates, withdraws from the University, or fails to register for classes for three (3) consecutive semesters, with summer term considered to be a semester, or no longer has a continuing student relationship with the University. Students who are accused of committing a violation of the Student Code of Conduct while they are enrolled at the University may still be held responsible for the violation even if they later withdraw from the University prior to a resolution of the alleged violation.

13. "Title IX Coordinator" is a person designated by the University to coordinate the University's effort to comply with its responsibilities under Title IX. The Title IX Coordinator oversees the University's gender equity work to ensure compliance with Title IX, including its policies and procedures, education/prevention efforts, and training. The Title IX Coordinator reviews information about sexual misconduct to identify and address any patterns or systemic problems that arise during the review of such complaints. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment) to the Title IX Coordinator.

14. "University Conduct Board" has the authority to hear and resolve charges that a student or a student organization violated the Standards of Academic Integrity and Responsible Conduct ("Standards") and if the Board determines that a violation occurred, for determining the University's response.

15. "University official" includes any individual employed by, associated with, or performing assigned administrative or professional responsibilities in the interests of the University. University officials who are designated as campus security authorities will report crimes, arrests, and disciplinary referrals to the person in charge of Clery Act reporting. Counselors and Healthcare Professionals are bound by professional rules that may preclude their reporting violations of University rules when they are acting within the scope of their counseling or professional responsibilities.

16. "University Presenter" is the person who presents the case on behalf of the University at the Hearing. This person may be, but is not required to be, the Investigator or the Title IX Coordinator.

17. "Witness" is a person believed to have information regarding an incident which may violate the Sexual Misconduct Policy, including but not limited to someone present when the incident occurred, someone the Complainant or Respondent communicated with about the incident, and/or someone who many have information relevant to the incident. Witness participation in the grievance process is voluntary. While the University encourages witnesses to cooperate with the grievance processes, the University cannot compel or require witnesses to participate.

E. Jurisdiction: Locations Where and Circumstances When the Procedures Apply

These Procedures apply to alleged sexual misconduct that occurs in the University's education program or activities, on-campus, or off-campus as described in this section.

1. Education Program and Activities

Education program or activity includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

2. On-Campus

On-campus includes all University premises, including all University of Nebraska locations; physical campuses, including all adjacent streets and sidewalks, and any University affiliated programs; events or activities, including those located in other states or countries; and the use of any University electronic systems.

3. Off-Campus

Off-campus means any location that is not on-campus.

a. These Procedures apply to conduct that occurs off-campus in the following situations:

   i. The Student Code of Conduct states that it applies to conduct that occurs off-campus.

   ii. The conduct occurs in or on the grounds of a University-approved housing unit.

   iii. The conduct occurs at events or during travel authorized, funded, or sponsored by the University.

   iv. The conduct occurs at events or during travel funded or sponsored by a student organization.

   v. The conduct poses a risk to the health and safety of individuals and application of the Student Code of Conduct is reasonably necessary to educate the student about the risks of the conduct or to help the student avoid engaging in the conduct in the future.

   vi. The conduct poses a serious risk to the health or safety of individuals and is of the type that the student could easily engage in on-campus.

   vii. The conduct was intentional and caused, or attempted to cause, physical injury to a University employee or another student.

   viii. The conduct could, or was intended to, cause harm on-campus.

   ix. The Title IX Coordinator:

      a) determines that the conduct in a particular matter distinctly and clearly implicates the University's interests;

      b) prepares a written explanation of the interests and how the conduct implicates them; and

      c) provides the written explanation to the student or student organization.

b. The University must dismiss an allegation of sexual harassment under Title IX in a Formal Complaint if the conduct did not occur in the University's education program or activity or if the conduct did not occur against a person in the United States.

c. Pursuant to Board of Regents By-Law 5.5, the Student Code of Conduct should not be applied as a matter of course to off-campus conduct simply because the conduct also violates federal, state, or local law.

F. Reporting Sexual Misconduct

1. Where to Report Sexual Misconduct

All individuals are expected to promptly report conduct that may violate the University's Sexual Misconduct Policy to the University. In addition, all individuals are expected to report conduct that may also violate criminal law to both the Title IX Coordinator and to local law enforcement. These processes are not mutually exclusive and both may happen simultaneous or at different times.

Any University student, employee, or other individual who seeks to report may contact the:

- Title IX Coordinator;
- University Police or Public Safety for assisting in filing a criminal complaint and preserving physical evidence; and/or
- Local law enforcement to file a criminal complaint.

The University will respond to reported allegations of sexual misconduct and may provide appropriate supportive measures to the Complainant, as described below, even if the Complainant does not wish to pursue a Formal Complaint. If an individual would like the University to respond to allegations of sexual misconduct, it is important that the individual report to the Title IX Coordinator. In some cases, an individual who may have experienced sexual misconduct may share information with another member of the University community. While the University expects University community members with knowledge of potential violations of the Sexual Misconduct Policy to report to the Title IX Coordinator, the University will only have actual notice of sexual misconduct if an individual reports to an Official with Authority. The following individuals are Officials withAuthority: President, Chancellors; Provost/Vice Presidents and Vice Chancellors; and UNCA andCampus Title IX Coordinators.

2. Reporting to the Title IX Coordinator

Any person may report sex discrimination, including sexual misconduct (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual misconduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Title IX Coordinator Contact Information:

Meagan Counley
Title IX Coordinator
University of Nebraska-Lincoln
128 Canfield Administration Building
(402) 472-3417
mcounley2@unl.edu

Carmen Sirizzotti
Title IX Coordinator
University of Nebraska Medical Center
2010 Administrative Center
(402) 559-2710
csirizzotti@unmc.edu

Sarah Weil
Title IX Coordinator
University of Nebraska at Omaha
211 Eppley Administration Building
(402) 554-2120
sweil@unomaha.edu

Mary Chinnock Petroski
Title IX Coordinator
University of Nebraska at Kearney
2113 Warner Hall
(308) 865-8655
petroskimj@unk.edu

Jennifer McConville
Title IX Coordinator
Nebraska College of Technical Agriculture
404 E 7th Street
(308) 367-5259
jmcconville2@unl.edu

Drew Nielsen
Title IX Coordinator
University of Nebraska Central Administration
222 Varner Hall
(402) 554-3715
drewnielsen@unomaha.edu

- The University of Nebraska hotline is available for online reporting at https://secure.ethicspoint.com/domain/media/en/gui/52126/index.html or by phone at 844-348-9584.

- A person may also contact the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting www2.ed.gov/about/offices/list/ocr/complaintintro.html or calling 1-800-421-3481.

3. Reporting to Law Enforcement

An individual who has experienced sexual misconduct has the right to choose whether to file a police report. The University encourages individuals to report incidents of sexual misconduct to University Police or local law enforcement. Filing a police report can result in the investigation of whether sexual violence or related crimes occurred and the prosecution of the perpetrator. Timely reporting to the police is an important factor in successful investigation and prosecution of crimes, including sexual violence.

The Title IX Coordinator or their designee provides information on contacting local and campus law enforcement and will assist an individual in doing so. However, the Title IX Coordinator or their designee will not compel an individual to go to law enforcement.

Contact Information for University Police or Public Safety:

University Police (UNL and UNCA)
300 N 17th Street
(402) 472-2222
unl.police@unl.edu

Campus Security (UNMC)
4215 Emile Street
(402) 559-5111
unmcsecoffice@unmc.edu

Department of Public Safety (UNO)
100 Eppley Administration Building
(402) 554-2648
unopublicsafety@unomaha.edu

Police Department (UNK)
Facilities Building, 2501 19th Avenue
(308) 865-8911
unkpd@unk.edu

Frontier County Sheriff (NCTA)
308 Center Ave N, Curtis, NE 69025
(308) 367-4411

4. What Happens When A Title IX Coordinator Receives A Report

Upon receiving a report of sexual misconduct, the Title IX Coordinator or their designee will promptly contact the Complainant to discuss the availability of supportive measures. (Please see the Supportive Measures Section for more details). The Title IX Coordinator or their designee will:

a. Discuss the availability of supportive measure;

b. Consider the Complainant's wishes with respect to supportive measures;

c. Inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint;

d. Explain to the Complainant the process for filing a Formal Complaint against the Respondent; and

e. If applicable, explain to the Complainant that if a Formal Complaint alleging sexual harassment under Title IX is dismissed the alleged sexual misconduct may be addressed under a different provision of the Student Code of Conduct using these Procedures.

Additionally, upon receiving a sexual misconduct report or complaint, the University will provide, or confirm that the Complainant has already received from the University, written information describing:

a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;

b. How and to whom the alleged offense should be reported;

c. Options about the involvement of law enforcement and campus authorities, including notification of the Complainant's option to—

i. Notify proper law enforcement authorities, including on-campus and local police;

ii. Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

iii. Decline to notify such authorities;

d. Information about orders of protection, ‘‘no-contact’’ orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the University;

e. Information about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for Complainants, both within the University and in the community; and

f. Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

A Complainant may go forward with one or more reporting options at the same time. The University’s investigation may need to be delayed temporarily by, or scheduled around, an ongoing criminal or external administrative investigation.

5. Anonymous Reports

Any individual may make a report of sexual misconduct to the University, and if preferred, may do so without disclosing one’s name. Depending on the level of information available about the incident or the individuals involved, the University’s ability to respond to an anonymous report may be limited.

6. Confidentiality, Privacy, and Sharing of Information

The University shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of sexual misconduct, any Complainant, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) or as required by law, or to carry out the purposes of Title IX, including conducting any investigation, hearing, or judicial proceeding arising thereunder. The University may be required to share information with other individuals in accordance with FERPA, Title IX, or other applicable law, including lawfully issued subpoenas in criminal, administrative, and civil matters.

The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. The Complainant and the Respondent and their respective advisors are asked to keep private information that does not consist of “the allegations under investigation” (For example, evidence related to the allegations that has been collected and exchanged between the parties and their advisors during the investigation under or the Investigative Report summarizing relevant evidence sent to the parties and their advisors.

The Complainant and the Respondent and their respective advisors are asked to keep the information related to the investigation and resolution private, to the extent consistent with applicable law. Witnesses are asked to keep any information learned in an investigation meeting confidential, to the extent consistent with applicable law.

7. Time Frame for Reporting an Incident

Although the University does not limit the time frame for reporting sexual misconduct to promote timely and effective review, the University strongly encourages individuals to report possible sexual misconduct within one hundred and eighty (180) calendar days of the last occurrence of the concerning conduct. A report made after one hundred and eighty (180) days may make it more difficult to gather relevant and reliable information.

8. Amnesty for Reports of Sexual Misconduct

The University encourages reporting of sexual misconduct and seeks to remove barriers to making a report. The University recognizes that an individual who has been consuming unauthorized alcohol (including underage consumption) or using illegal drugs or unauthorized prescription drugs at the time of an incident may be hesitant to make a report due to potential consequences. To encourage reporting, and except as provided below, an individual who makes a good faith report of sexual misconduct and/or participates in an investigation will not be subject to disciplinary action for a policy violation related to consuming unauthorized alcohol or using illegal drugs or unauthorized prescription drugs. This policy provision may also apply to registered student organizations when a report of sexual misconduct is made that could reasonably result in the organization facing student conduct disciplinary action for a policy violation related to consuming unauthorized alcohol or using illegal drugs or unauthorized prescription drugs. This policy does not preclude or prevent action by law enforcement or other legal authorities.

G. Preservation of Evidence

Individuals involved in a report of sexual misconduct should preserve evidence to the extent possible, as it may assist the University or law enforcement in making factual determinations about the reported violence or misconduct or may be helpful to a court's determination regarding the issuance of a Personal Protection Order. The University encourages individuals to go to the police or another resource in order to assist in the preservation of evidence.

H. Supportive Measures

The University will provide supportive measures to Complainants and Respondents. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. The following supportive measures may be made available to the Complainant and the Respondent based on the facts and circumstances of the individual case:

1. Transfer or re-assignment of living space within University residence halls;

2. Assistance from the University in completing the relocation if transferred or re-assigned;

3. Mutual restrictions on contact between the parties;

4. Cancelling a university housing contract and/or adjusting a student account balance for refund;

5. Coordinating course-related adjustments (e.g. excused absences, flexible attendance, revised deadlines, reschedules, substitutions, etc.);

6. Endorsing or authorizing a grade change (e.g. incomplete, pass/no pass);

7. Transferring between class sections;

8. Endorsing or authorizing a withdrawal after the deadline has passed with or withouta refund of tuition and fees;

9. Alternative course completion options (e.g. substitutions, independent study, correspondence);

10. Arranging to complete a course or lectures via distance education methods with the assistance of technology;

11. Providing increased security at location or activities (e.g. accompaniment or escort, surveillance, monitoring);

12. Modifying work schedules, job responsibilities, supervision, or re-assignment to a different work site; and

13. Counseling at a campus clinic or center.

The University will maintain as confidential any supportive measures provided to the Complainant or the Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. Any supportive measures offered to either party cannot punish, discipline, or unreasonably burden the other party.

I. Emergency Removal

1. Overview

   a. The University may remove a Respondent from the University's education program or activity on an emergency basis, provided that the University

      i. undertakes an individualized safety and risk analysis;

ii. determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct justifies removal; and

iii. provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

b. The emergency removal process may be initiated by the Title IX Coordinator.

c. Emergency removal may be undertaken in addition to implementing supportive measures designed to restore or preserve a Complainant's equal access to education.

d. Emergency removal does not preclude a Respondent from receiving supportive measures as appropriate.

e. The University has discretion to determine the appropriate scope and conditions of removal of the Respondent from the University's education program or activity. During an emergency removal, a Respondent may be denied access to any University premises, including classes, residence hall access, sporting events, and/or all other University programs, activities or privileges for which the Respondent might otherwise be eligible, as the Vice Chancellor responsible for student conduct or other designated University Official may determine to be appropriate to address an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct.

2. The Vice Chancellor responsible for student conduct or other designated University Official must provide the Respondent with a Notice of Emergency Removal. The Notice must be sent to the Respondent's e-mail address of record and must:

a. state the factual basis for the Respondent's emergency removal and explain why the Respondent's conduct or presence on campus presents an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct that emergency removal is necessary; merely reciting the language of the Code is insufficient;

b. state that the Respondent may challenge the decision immediately, in writing, following the removal;

c. state that the Respondent has a right to a meeting, in person or remotely, with the Vice Chancellor responsible for student conduct or other designated University Official within three (3) University Days after the emergency removal becomes effective to present information to show that

the requirements for an emergency removal have not been satisfied and that the emergency removal should therefore be lifted;

d. state the time, date, and place of the meeting with the Vice Chancellor responsible for student conduct or other designated University Official and state that the student may be accompanied by an advisor of their choosing, including an attorney, but that the student is responsible for any fees that the advisor may charge; and

e. state that after the expiration of the three (3)-day period, a student may seek to have the emergency removal lifted by making a Request for Reinstatement.

3. After the expiration of the three (3)-day period, a student who has been removed on an emergency basis may seek reinstatement by making a Request for Reinstatement ("the Request") on the ground that:

   a. the requirements for an emergency removal were not met when the student was removed on an emergency basis and are not currently met or

   b. circumstances have changed such that the requirements for an emergency removal are no longer met.

4. The Request must be in writing, state the reasons for request, and include the evidence that supports the Request. The Request must be sent to the Vice Chancellor responsible for student conduct or other designated University Official by e-mail or certified mail or may be hand-delivered to the Vice Chancellor's office or the designated University Official's Office.

5. The Vice Chancellor responsible for student conduct or other designated University Official must make a decision on the Request as soon as reasonably practicable. Before making a decision, the Vice Chancellor responsible for student conduct or their designee has the discretion to seek additional information, to ask the Title IX Coordinator (in the event the Title IX Coordinator is not the designated University Official), an Investigator, or Conduct Officer to review and comment on the Request, or to schedule a meeting with the Respondent and their advisor.

6. The fact that a student was removed on an emergency basis should not be taken into account by the Hearing Officer or Hearing Board in determining whether the student violated the Code, including the Sexual Misconduct Policy.

7. If a Respondent who is removed on an emergency basis is ultimately found "not in violation" of the Student Code of Conduct, the Respondent may be allowed, at the reasonable discretion of the appropriate faculty member or instructor, to make up academic work missed while on emergency removal.

J. Grievance Process for Formal Complaints

The grievance process begins when a Complainant files, or a Title IX Coordinator signs, a Formal Complaint requesting that the University investigate an allegation of sexual misconduct. Filing a Formal Complaint is the first step of a grievance process that determines whether the Respondent is responsible for violating the Policy. Unless a Formal Complaint is dismissed or resolved during one of the steps of the grievance process, the grievance process will include a preliminary review of the Formal Complaint, an investigation, a hearing, and the opportunity for the parties to challenge certain decisions through an appeal. Additionally, an Informal Resolution process may be available at any time prior to reaching a University determination regarding responsibility. If applicable, the University may initiate Informal Resolution or either party may request Informal Resolution.

If the Respondent is no longer a student, employee, or participant in any University-related program or activity at the time of the report, or if the conduct does not fall within the scope of the Policy, the Formal Complaint may be dismissed. The University will, however, help a Complainant identify reporting options outside the University and provide supportive measures. A Respondent is presumed not responsible for the alleged conduct unless a determination regarding responsibility is made at the conclusion of the grievance process by the decision maker(s) based upon the preponderance of the evidence standard.

Individuals who knowingly or intentionally file a false formal complaint or provide false or misleading information during a grievance process may be subject to disciplinary action up to and including termination of employment or expulsion. Disciplinary action is not warranted where an individual provides information in good faith, even if the information is ultimately not substantiated. An individual provides information in good faith when that individual reasonably believes that the information they have provided is accurate.

1. Filing A Formal Complaint

   a. A Complainant may file a Formal Complaint against a Respondent requesting that the University investigate the allegation of sexual misconduct.

      i. A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator

         a) alleging sexual misconduct, including sexual harassment under Title IX, against a Respondent and

         b) requesting that the University investigate the allegation of sexual misconduct.

      ii. A "document filed by a Complainant" means a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by the University) that contains the

Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

iii. At the time of filing a Formal Complaint, for the purposes of Title IX, a Complainant must be participating in or attempting to participate in the education program or activity of the University.

b. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator above.

2. Consolidation of Complaints

a. The University may consolidate Formal Complaints as to allegations of sexual misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual misconduct arise out of the same facts or circumstances.

b. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

3. Notice of Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator or their designee will provide a written notice to the parties who are known.

The Notice of Allegations will include the following information:

a. Notice of the University's Sexual Misconduct Policy and Procedures, and an explanation of the grievance process and Informal Resolution process.

b. Notice of the allegations of the conduct potentially constituting sexual misconduct, including

i. The identities of the parties involved in the incident, if known;

ii. The conduct allegedly constituting sexual misconduct;

iii. The date and location of the alleged incident, if known;

iv. 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;

v. Information that the parties may have up to two advisors of their choice, who may be, but are not required to be, attorneys, and may inspect and review evidence;

vi. Information related to any provision in the University's Student Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process;

vii. Information related to the availability of supportive measures;

viii. Information related to the availability of reasonable accommodations;

ix. Prohibition of retaliation; and

x. Notice of other potential Student Code of Conduct violations.

If, in the course of an investigation, if the University decides to investigate allegations about the Complainant or the Respondent that are not included in the notice, the University will provide notice of the additional allegations to the parties whose identities are known.

4. Preliminary Review of Formal Complaint and Situation When a Formal Complaint Must or May Be Dismissed

When a Title IX Coordinator receives a Formal Complaint, the Title IX Coordinator or their designee will do a Preliminary Review of the Formal Complaint. The University will investigate the allegations in a Formal Complaint. However, there are certain circumstances when the University is either required to, or may, dismiss a Formal Complaint or an allegation within the Formal Complaint.

a. The University will dismiss an allegation of sexual harassment under Title IX in a Formal Complaint under the following circumstances:

i. The conduct would not constitute sexual harassment as defined by the Sexual Misconduct Policy and Procedures, even if proved;

ii. The conduct did not occur in the University's education program or activity; or

iii. The conduct did not occur against a person in the United States.

b. A dismissal of an allegation of sexual harassment under Title IX does not preclude action under another provision of the University's Student Code of Conduct.

c. A Complainant not participating in or attempting to participate in the

education program or activity of the University at the time of the Formal Complaint does not preclude the Title IX Coordinator from signing the Formal Complaint or proceeding under another provision of the University's Student Code of Conduct.

d. In the event the Title IX Coordinator or their designee determines another provision of the Student Code of Conduct may apply to the alleged sexual misconduct and it is appropriate to proceed, the Formal Complaint will be investigated, adjudicated, and resolved in accordance with the process set forth in these Procedures.

e. The University may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

   i. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;

   ii. The Respondent is no longer enrolled or employed by the University; or

   iii. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

f. Upon dismissal of any or all of the allegations in the Formal Complaint, the Title IX Coordinator must provide a Notice of the Dismissal to the parties within (7) days of the Title IX Coordinator's decision to dismiss any or all of the allegations.

g. The Notice of Dismissal must be provided to the parties simultaneously. The Notice of Dismiss must:

   i. Explain the reason(s) for dismissal;

   ii. Explain information regarding the appeal rights of the parties; and

   iii. Notify the parties of the ongoing investigation in circumstances where the alleged sexual misconduct may otherwise be subject to a different provision of the Student Code of Conduct and the grievance process will continue.

h. Notice of dismissal must be provided even if the grievance process will continue because the Title IX Coordinator determines the alleged sexual harassment may otherwise be subject to a different provision in the Student Code of Conduct and the investigation and grievance process will continue.

Under these circumstances, the notice of dismissal must notify the parties of the ongoing investigation.

For example: If the alleged sexual misconduct occurred during a University sponsored event outside of the United States, the Title IX Coordinator must dismiss the Formal Complaint for the purposes of the Title IX sexual harassment Complaint. The Title IX Coordinator must send notice to the parties. However, the Title IX Coordinator may determine the alleged sexual misconduct falls under the off-campus jurisdiction of the Student Code of Conduct and may continue the investigation and grievance process.

5. Appeals of the Dismissal of a Formal Complaint

a. Overview

The Complainant and the Respondent may appeal the dismissal of allegations of sexual harassment under Title IX contained in a Formal Complaint. The Title IX Coordinator or their designee's dismissal of any non-Title IX allegations of sexual misconduct in a Formal Complaint or determination not to apply other provisions in the Student Code of Conduct are final and not subject to appeal. This appeal process provides both the Complainant and the Respondent a reasonable, equal opportunity to submit a written statement in support of, or challenging, the dismissal.

The Appeals Officer will not be the same person as the decision-maker(s) who reached the determination regarding dismissal, the Investigator(s), or the Title IX Coordinator. The Appeals Officer will not have a conflict of interest or bias for or against Complainants and Respondents generally or an individual Complainant or Respondent and comply with the training requirements set forth in the Sexual Misconduct Policy.

b. Reasons for Appeal

Dismissal of allegations of sexual harassment under Title IX in a Formal Complaint may be appealed on the following reasons:

i. A procedural irregularity that affected the outcome of the matter;

ii. The discovery of new evidence that was not reasonably available at the time of the Dismissal and that could affect the outcome of the matter; or

iii. The Title IX Coordinator or their designee or the Investigator 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.

c. Appeal Process

i. The appeal must be in writing and delivered to the Appeals Officer appointed by the Chancellor or their designee within seven (7) University Days of the delivery of the Notice of Dismissal.

ii. An appeal must be in writing and specify the reason(s) for the appeal.

iii. If either party submits an appeal, the other party and the Title IX Coordinator will be provided with a copy of the appeal and both will be given seven (7) University Days to submit their respective written responses.

iv. The Appeals Officer may request additional information from the Title IX Coordinator or the parties at the Appeals Officer's discretion.

v. The Appeals Officer will review all of the information and determine whether to grant or deny the appeal.

a) The written decision will describe the result of the appeal and the rationale for the result.

b) If an appeal does not clearly raise one or more of the reasons listed above, the Appeals Officer will dismiss the appeal without further consideration.

c) If the Appeals Officer determines that the appeal clearly raises one or more of the reasons, the Appeals Officer may 1) affirm, in whole or in part, the decision on Dismissal, 2) overturn, in whole or in part, the decision on Dismissal, 3) or refer the Formal Complaint back to the Title IX Coordinator for further consideration or proceeding.

d) A final outcome on an appeal is not subject to further appeal.

vi. The Appeals Officer shall complete review of the appeal normally within fourteen (14) University Days after receipt of the record and any additional information, though this may vary based on the scope of the appeal or unforeseen circumstances.

vii. The written determination will be provided simultaneously to the Complainant, the Respondent, and the Title IX Coordinator.

d. Any non-Title IX alleged violations may continue to be investigated during the Appeal Process.

6. Investigation

The investigation process is conducted by the Title IX Coordinator or one or more Investigators. The University has the burden of gathering evidence sufficient to allow the Hearing Board to reach a determination regarding responsibility.

a. Meeting Notice

Prior to meeting with the Complainant or the Respondent, the Investigator will provide, written notice to the person being interviewed of the date, time, location, participants, and purpose all investigative interviews or other meetings, with sufficient time for the party to prepare to participate. In general, sufficient time will be at least five (5) University Days, however, a party may agree to meet sooner.

b. Advisors

The University will provide the parties with the same opportunities to have others present during any meeting or grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by up to two advisors of their choice, who may be, but are not required to be, attorneys, and not limit the choice or presence of advisors for either the Complainant or the Respondent in any meeting or grievance proceeding. However, the University may establish restrictions regarding the extent to which the advisors may participate in the proceedings, as long as the restrictions apply equally to both parties.

c. Gathering Evidence

The Investigator will meet separately with the Complainant and the Respondent. The Investigator will ask for all information relevant to the allegations. The parties will have an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. For both parties, this is an opportunity to present any information regarding the incident, including names of witnesses, the existence of documents, emails, text messages, or other recordings, or any other information the parties feel may be relevant. As part of the investigation, the Investigator may conduct additional investigative and witness interviews at the Investigator's discretion. The Investigator is responsible for contacting and interviewing relevant witnesses the Complainant identifies and witnesses the Respondent identifies, and any witnesses the Investigator deems necessary. The Investigator will review all available pertinent evidence. This may include reviewing student and/or personnel files and reviewing law enforcement documents or evidence. The Complainant and the Respondent may also submit supplemental information at any time during the investigation until the Investigator issues a final Investigative Report.

The Investigator will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the

party, unless the University obtains that party's voluntary, written consent to do so for a grievance process under this section.

Additionally, the Investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognizedprivilege, unless the person holding such privilege has waived the privilege. Examples of privileges include Lawyer-Client, Physician-Patient, Professional Counselor-Client; Spousal, Clergy, and Victim's Advocate.

In summary, as a general rule, the following information may not be used during the grievance process: Information protected by a legally recognized privilege unless the person holding such privilege has waived the privilege; evidence about a party's prior sexual history unless an exception applies; and any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

d. Review of the Evidence

The Investigator will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint. This includes evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Prior to completion of the Investigative Report, the Investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have at least ten (10) University Days to submit a written response, which the Investigator will consider prior to completion of the Investigative Report. The University will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

e. Investigative Report

The Investigator will create an Investigative Report that fairly summarizes relevant evidence. At least ten (10) University Days prior to a hearing, or other time of determination regarding responsibility (whichever allows for a longer time period), the Investigator will send to each party and the party's advisor, if any, the Investigative Report in an electronic format or a hard copy, for their review and written response. Both parties will have the right to review each other's responses and the responses will be provided at the hearing.

General Provisions Concerning the Investigative Report

i. The parties will have an equal opportunity to review the Investigative Report; if a party disagrees with an Investigator's

determination about relevance, the party can make that argument in the party's written response to the Investigative Report and to the Hearing Board at any hearing held; either way the Hearing Board is obligated to objectively evaluate all relevant evidence and the parties have the opportunity to argue about what is relevant (and about the persuasiveness of relevant evidence).

ii. The Investigator may redact from the Investigative Report information that is not relevant, which is contained in documents or evidence that is relevant.

iii. The Investigator may include facts and interview statements in the Investigative Report.

f. Case Resolution Timeline

Though the University strives to resolve all cases in a prompt and timely manner, the timeline varies based on the circumstances of the case. Additionally, the timeline for a case may be affected by breaks in the academic calendar; absence of a party, a party's advisor, or a witness; (including due to leave of absence); concurrent law enforcement activity; the need for language assistance; accommodation of disabilities; scope of the investigation; and unforeseen or exigent circumstances. The parties will be periodically updated on the status of their case. In cases where there is a simultaneous law enforcement investigation, the University may need to temporarily delay its investigation while law enforcement gathers evidence. However, the University investigation will generally proceed with its investigation and resolution of a complaint during any law enforcement investigation.

The University will strive to conduct investigations of the allegations within ninety (90) University Days of receipt of the Formal Complaint. If the investigation will take a longer amount of time to complete, both parties must be informed in writing of the extension of the timeline. While the University will attempt to accommodate the schedules of parties and witnesses throughout the grievance process in order to provide parties with a meaningful opportunity to exercise the rights granted to parties under the Policy and Procedures, it is the University's obligation to meet its own designated time frames, and the grievance process can proceed to conclusion even in the absence of a party or witness.

7. Formal Hearings in Cases of Alleged Sexual Misconduct

a. Overview

After an investigation, the University will conduct a hearing to determine whether the Respondent is responsible for violating the Sexual Misconduct Policy. During the hearing, the Student Conduct Officer or their designee, the Complainant, and the Respondent will each have an opportunity to

i. Discuss and explain their position;

ii. Present evidence, including documents and witnesses; and

iii. Have their advisor ask questions of other party and witnesses (e.g. cross-examination).

If a determination of responsibility for sexual misconduct is made against the Respondent, the decision-maker(s) will determine appropriate sanctions for Respondent and confirm that the University will provide remedies to the Complainant. A hearing must be held unless the case has been resolved pursuant to the Informal Resolution Section. The University will strive to conduct a hearing within thirty (30) University Days from the issuance of the investigation report.

b. Hearing Scheduling and Notice

When the Investigator sends the Investigative Report to the Respondent and the Complainant, the Title IX Coordinator or their designee will forward a copy of the Investigative Report to the Hearing Facilitator. The Hearing Facilitator will schedule a hearing date, time, and location and notify the parties of the same. The University will strive to complete a hearing within one (1) month from the issuance of the investigation report. (May be delayed due to Informal Resolution)

A Pre-Hearing Conference will be held at least two (2) University Days prior to the scheduled hearing. The University will provide written notice of the date, time, location, participants, and purpose of both the prehearing conference and of the hearing at least five (5) University Days prior to the prehearing conference.

c. Pre-Hearing Conference

The Respondent and the Complainant shall have the right to attend a Pre-Hearing Conference. The purpose of the Pre-Hearing Conference is to plan for the hearing, discuss the issues and facts that will be presented at the hearing, exchange information about witnesses likely to be called, answer procedural questions, and settle those matters which may be agreeably concluded. Generally, the Chair of the Hearing Board will preside over the Pre-Hearing Conference. During or prior to the Pre-Hearing Conference, the parties shall be informed of the names of the Hearing Board members.

i. Hearing Information Exchange Prior to the Pre-Hearing Conference

The Respondent, the Complainant, and the University Presenter shall have an opportunity to inspect documents and a list of witnesses prior to the hearing. The Hearing Board will receive a copy of the Investigative Report. If there are any additional documents, that the Respondent, the Complainant, or the University Presenter would like to offer at the hearing, this information should be provided at least two (2) University Days before the Pre-Hearing Conference. This information will be exchanged with all parties.

ii. Use of Past Sexual Behavior

During the Pre-Hearing Conference, the parties will be instructed about the use of past sexual behavior of the Complainant[1] or past sexual assault by the Respondent[2] as evidence at the hearing. In most situations, questions and evidence of the past sexual history of either the Respondent or the Complainant are not relevant and will not be admitted at the hearing except in very limited situations set forth below.

a) 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

b) if the questions and evidence concern specific incidents or the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

d. General Hearing Information

i. At the request of either party, the University will provide for the live 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.

ii. The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

iii. The Hearing Board is a subset of the University Conduct Board. It will be composed an odd number of three or more members, including one (1) student member. One of the members shall serve as Chair. All members possess voting privileges.

iv. Any real or perceived conflict of interest or bias between a member of the Hearing Board and the Respondent or the Complainant must be brought to the attention of the Hearing Facilitator or Chair of the

[1] *See* Neb. Rev. Stat. § 27-412 (2016) (Relevance of person's alleged past sexual behavior or alleged sexual predisposition).
[2] *See* Neb. Rev. Stat. § 27-415 (2016) (Evidence of crimes of sexual assault in civil cases).

Hearing Board no less than two (2) University Days in advance of the hearing.

v. The Respondent and the Complainant have the right to be present for the hearing. If the Respondent is a student organization, then one of its officers has the right to be present for the hearing. The hearing is closed to the public.

vi. The Respondent may not be found to be responsible for sexual misconduct solely because the Respondent is not present at the Hearing.

vii. In such cases when a Respondent fails to appear before the Hearing Board, a plea of "not in violation" shall be entered on the Respondent's behalf and the hearing may proceed as scheduled. In this situation, the University will provide an advisor to conduct cross-examination of the Complainant and witnesses.

viii. In hearings involving more than one Respondent, the Chair of the Hearing Board, in their discretion, may permit the hearings concerning each Respondent to be conducted separately.

ix. The Respondent(s), the Complainant, and the University Presenter shall have the right to hear all evidence, present evidence, testify, and to hear and question witnesses.

x. The process must not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Examples of privileges under law include Lawyer-Client, Physician-Patient, Professional Counselor-Client; Spousal, Clergy, and Victim's Advocate.

xi. The role of the Complainant's and the Respondent's advisor of choice is limited to providing advice to the party and conducting cross-examination of witnesses. The role of a University appointed advisor is limited to conducting cross-examination. Advisors must fulfill their role in a manner which does not disturb Conduct proceedings. If an advisor fails to act in accordance with these guidelines, they may be barred from participation in the Conduct proceedings and the hearing may be continued.

xii. The Hearing Board may seek advice from the University's Counsel throughout the hearing process on questions of law and procedure. However, the members of the Hearing Board are responsible for making their own factual conclusions.

xiii. The Hearing Board can hear any allegations of any other violations of the Student Code of Conduct in addition to allegations of sexual misconduct that are directly related to the alleged sexual misconduct. If the Hearing Board determines other provisions of the Student Code of Conduct were violated, they may impose proper sanctions.

xiv. No process implemented under these Sexual Misconduct Procedures shall be open to the public. The Complainant and the Respondent are entitled to the same opportunities to have others present during a disciplinary proceeding subject to conditions established by the Sexual Misconduct Policy and these Procedures, the Title IX Coordinator, and the Hearing Board. Witnesses may be sequestered and attendance at hearings may be restricted to the Complainant, theRespondent and their respective advisors.

xv. The Investigative Report may include recommended findings or conclusions as to whether Respondent violated the University's Student Code of Conduct in the Investigative Report. However, the Hearing Board is under an independent obligation to objectively evaluate relevant evidence, and thus cannot simply defer to recommendations made by the Investigator in the Investigative Report.

xvi. If the Investigative Report includes general findings of credibility, the Hearing Board cannot interpret the Investigator's finding of credibility as a finding of responsibility.

xvii. The determination of the merits of each case shall be made using a preponderance of the evidence standard.

xviii. The burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility shall rest upon the University. A Respondent is presumed to be not responsible for the alleged misconduct until proven otherwise.

e. The Hearing Procedures

i. The University will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspections and review upon request.

ii. At the beginning of the hearing, the Chair of the Hearing Board should state for the record:

a) the date, time, and place and

b) their name and role as the Chair of the Hearing Board.

iii. The Chair should:

a) have the other members of the Hearing Board identify themselves and

b) state whether there is a quorum. If there is not a quorum, then the hearing must be rescheduled unless all parties waive on the recording any objection to the lack of a quorum.

iv. The Chair should then identify the other persons present, ask the University Presenter to read the alleged violation(s), and ask the Respondent if the Respondent admits to the alleged violation(s).

v. The Chair must conduct the hearing in a manner that facilitates the presentation of relevant evidence by the Complainant, the Respondent, and the University Presenter. The Complainant, the Respondent, and the University Presenter have the right to call witnesses, including expert witnesses, and present their respective cases. The members of the Hearing Board may ask questions to clarify what the witness said or to elicit more detailed information.

vi. The Chair of the Hearing Officer has the discretion to:

a) allow the parties to make opening statements, closing statements, or both, with reasonable time limits;

b) allow witnesses to testify by videoconferencing technology;

c) require that the witnesses who have not yet testified wait somewhere other than the hearing room until they are called to testify; and

d) schedule separate hearings if charges have been brought against multiple respondents or multiple charges have been brought against a single respondent.

vii. The University Presenter will present evidence first, followed by the Complainant, and then the Respondent. Courtroom rules of evidence do not apply.

viii. The presentation of evidence may include calling witnesses who have relevant information. A party may question the witness they call in support of their position.

f. Questioning of Parties and Witnesses During the Hearing

i. The Chair will permit each party's advisor to ask the other party and any witnesses called by another party all relevant questions and follow-up questions, including those challenging credibility ("cross-examination").

ii. Such cross-examination will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the Chair to otherwise restrict the extent to which advisors may participate in the proceedings.

iii. Before a Complainant, a Respondent, or a witness answers a cross-examination or other question, the Chair will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

iv. Additionally, the Chair will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

v. As a general rule, the following information may not be used during the grievance process: Information protected by a legally recognized privilege unless the person holding such privilege has waived the privilege; evidence about a Complainant's prior sexual history unless an exception applies; any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

vi. The Chair will explain to the party proposing the questions any decision to exclude a question as not relevant.

vii. If a party does not have an advisor present at the live hearing, the University will provide without fee or charge to that party, an advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

viii. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or

if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

ix. The Hearing Board cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing, or decision not to answer questions or otherwise not participate in the investigation or live hearing.

x. Other than to conduct cross-examination as described above, the parties' respective advisors may not speak on behalf of the parties during the hearing and may not directly participate in any aspect of the hearing. The Complainant or the Respondent, however, may consult with their respective advisors during the hearing. The Hearing Board Chair may limit the length and frequency of consultations so that they do not unreasonably delay the hearing or unreasonably interfere with the presentation of evidence.

xi. At the conclusion of the hearing, the Hearing Board must go into closed session to deliberate and make its decision based solely upon the relevant evidence introduced and received at the hearing. The decision must be made by a majority vote.

xii. A Respondent is presumed to be not responsible. The determination of the merits of the case shall be made using the preponderance of the evidenced standard.

g. Determination

Within seven (7) University Days following the conclusion of formal hearing proceedings, the presiding Hearing Board Chair shall inform the Respondent, the Complainant, the University Presenter, and the Title IX Coordinator in writing, of its findings and if relevant, any sanction(s). Please see the section on sanctions below.

The findings must include the following information.

1. Identification of the allegations potentially constituting sexual misconduct;

2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, methods used to gather evidence; and hearings held;

3. Findings of fact supporting the determination;

4. Conclusions regarding the application of the University's Student Code of

Conduct to the facts;

5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Hearing Board imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and

6. The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The Respondent and the Complainant have the right to be notified of the decision rendered. Any initial, interim, and final decision to resolve disciplinary matters must include a statement of any University sanctions imposed together with the rationale for the decision.

If a timely appeal is filed within seven (7) University Days of the decision being delivered to the parties, the Record of the Hearing, including the determination, will be provided to the Appeals Officer. The Record of the Hearing consists of the information, documents, and recordings related to the hearing such as the notice of the Hearing, documents related to the Pre-Hearing Conference, Investigative Report, evidence submitted by the Complainant, the Respondent, and the University Presenter, audio or audiovisual recording, transcript if any, determination, etc.

h. Effective Date of Determination

Unless otherwise addressed in the Hearing Board's determination, the determination regarding responsibility and any sanction(s), become final either on the date that the determination of the result of the appeal is sent to the parties, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

8. Appeals of Hearing Board Determination after Formal Hearing

a. Overview

The Complainant and the Respondent may appeal a decision reached after a formal hearing for seven (7) University Days after the decision is delivered to the parties. This appeal process provides both the Complainant and Respondent a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome of the Hearing.

The Appeals Officer will not be the same person as the decision-maker(s) that reached the determination regarding dismissal, the Investigator(s), or the Title IX Coordinator. The Appeals Officer will not have a conflict of interest or bias for or against Complainants and Respondents generally or an individual Complainant or Respondent and comply with the training requirements set forth in the Sexual Misconduct Policy.

b. Reasons for Appeal

A determination may be appealed for the following reasons:

i. A procedural irregularity that affected the outcome of the matter;

ii. The discovery of 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;

iii. The Title IX Coordinator, Investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;

iv. The sanction(s) imposed were arbitrary and capricious or an abuse of discretion; or

v. A finding of fact in the determination is clearly erroneous and does not have factual support in the record and affected the outcome of the matter.

c. Appeal Process

i. The appeal must be in writing and delivered to the Appeals Officer appointed by the Chancellor or their designee within seven (7) University Days of the delivery of the Notice of Dismissal.

ii. An appeal must be in writing and specify the reason(s) for the appeal.

iii. If either party submits an appeal, the other party and the University Presenter and/or the Title IX Coordinator will be provided with a copy of the appeal and will be given seven (7) University Days to submit their respective written responses.

iv. The Appeals Officer may request additional information from the University Presenter and/or the Title IX Coordinator or the parties at the Appeal Officer's discretion.

v. The Appeals Officer will review all of the information and determine whether to grant or deny the appeal.

1) The written decision will describe the result of the appeal and the rationale for the result.

2) If an appeal does not clearly raise one or more of the reasons listed above, the Appeals Officer will dismiss the appeal without further consideration.

3) If the Appeals Officer determines that the appeal clearly

raises one or more of the reasons, in the written decision, the Appeals Officer may 1) affirm, in whole or in part, the decision on responsibility, 2) overturn, in whole or in part, the decision on responsibility, 3) affirm, overturn, or adjust the decision on disciplinary sanctions, or 4) remand the matter to remedy procedural errors or consider new evidence.

4) The determination of the Appeals Officer is final and not subject to further appeal.

vi. The Appeals Officer shall complete review of the appeal normally within fourteen (14) University Days after receipt of the record and any additional information, though this may vary based on the scope of the appeal or unforeseen circumstances.

vii. The written determination will be provided simultaneously to the Complainant, Respondent, University Presenter, and Title IX Coordinator.

K. Sanctions

If a Respondent or student organization is found to be responsible for a violation of the Sexual Misconduct Policy, the University's response may involve requirements designed to educate the student about the risks of the conduct, to assist the student in refraining from the conduct in the future, or to protect others. The University's response may also involve sanctions to the student or the student organization for engaging in the conduct and to deter the student or student organization from engaging in the conduct in the future. If the Hearing Board determines the Respondent is responsible for a violation of the Sexual Misconduct Policy, it may consider the Respondent's academic and disciplinary history in determining the appropriate sanction.

Responsive action is intended to eliminate prohibited conduct, prevent its recurrence, and promote accountability while supporting the University's educational mission and legal obligations. Responsive action may include disciplinary, rehabilitative (including educational), restorative, and monitoring components.

The University's response may include one (1) or more of the following:

1. Written Warning

a. This is a warning by a Hearing Officer or the Hearing Board that the Respondent committed a violation of the Standards and that future violations may result in a harsher response.

b. The warning may also include advice on steps that the Respondent may take to avoid future violations.

2. Probation for a specified period of time

a. Probation may include conditions that must be satisfied.

b. The conditions must be reasonably related to the violation or the reasons for the violation.

i. Examples of conditions for Respondents include the completion of educational programs and behavioral evaluations.

ii. Examples of conditions for student organizations include completing educational programs and adopting policies and procedures to minimize the risk of the wrongful conduct occurring in the future. Other examples include not engaging in specified recruitment practices holding specified events, or participating in specified events.

c. The failure to satisfy a condition of probation may be treated as an independent violation of the Standards of Responsible Conduct.

d. A violation of the Student Code of Conduct while a student or student organization is on probation may result in a more severe response to the new violation than if the new violation was considered in isolation.

3. Expulsion from University Housing

a. The Respondent is permanently barred from living in or being present on the premises of any University residence hall or housing unit.

4. Suspension from University Housing

a. The Respondent may not live in or be present on the premises of any University residence hall or housing unit for a specified period of time.

b. Conditions may be imposed on the Respondent returning at the end of the specified period, but any such conditions must be reasonably related to the reasons for the suspension.

5. Mandatory Relocation

    a. The student is required to move to a different room, University residence hall, or housing unit.

6. Loss of Privileges for a Specified Period of Time

    a. Loss of a privilege to engage in any activity or experience not required to satisfy graduation requirements, including but not limited to:

        i. Prohibition or limitation on the use of University electronic resources such as, internet access, email access, computers, or tablets;

        ii. Prohibition or limitation on the use of University media resources, such as communal televisions, projectors, etc.;

        iii. Prohibition or limitation on the use of University wellness/recreation center equipment;

        iv. Prohibition or limitation on on-campus dining;

        v. Prohibition or limitation on use of on-campus transportation;

        vi. Prohibition or limitation on use of University purchasing cards or accounts;

        vii. Prohibition or limitation on use of University keys and/or card access.

        viii. Prohibition or limitation on the use of personal media devices; and

        ix. Restriction on access to campus.

7. Restitution

    a. Requiring the student to return to the owner money or property that the student wrongfully took.

    b. Requiring the student to pay the owner for property destroyed or damaged.

8. Performance of Service to the University Community

    a. The service must be reasonable in type and duration.

b. When possible, the service should be designed to make amends for the violation, to educate the student about the harmful consequences of the violation, or to allow the student to develop their academic or professional skills.

9. Completion of Educational Programs, Assignments, or Behavioral Evaluations that are reasonably related to the violation

   a. These may include, but are not limited to, sexual harassment education and/or training programs, anger management programs, completing presentations or written assignments, substance abuse evaluations, and other such programs and evaluations that are designed to help the student identify and address factors that may have contributed to the violation. Students may be responsible for the costs or fees associated with any such programs or evaluations.

10. Employment Restrictions

   a. Prohibition or limitation on University student employment.

11. Revocation of Admission and/or Degree

   a. Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of the Standards in obtaining the degree, or for other serious violations committed by a student prior to graduation that may have resulted in suspension or expulsion.

12. Withholding Degree

   a. The University may permanently withhold awarding of a degree or withhold the award of a degree pending the completion of Disciplinary Procedures, including the completion of all University responses imposed.

13. No Contact

   a. A No Contact order may prohibit, but is not limited to, the following:

      i. Approaching one (1) or more specified individuals at any time;

      ii. Calling one (1) or more specified individuals at any time;

      iii. Sending via email or by any other means, any communication to one (1) or more specified individuals at any time; and

      iv. Contacting or communicating with one (1) or more specified individuals through a third-party.

b. If the student subject to the No Contact order believes contact with one (1) or more of the specified individuals is necessary, any such contact must be made through the Student Conduct Office or with the expressed permission of a Conduct Officer.

14. Loss of Status as a Recognized Student Organization

a. The loss may be permanent or for a specified period of time.

b. Conditions may be imposed on the organization for regaining its status at the end of the specified period, including the condition that the members comply with the Code of Conduct during the specified period.

15. Suspension for a Specified Period

a. Suspension is a temporary separation from the University of Nebraska.

b. During the suspension period, the student is precluded from registration, class attendance or participation, and residence on campus.

c. During the suspension period the student is prohibited from entering University property, functions, events, and activities without prior written approval of the Vice Chancellor responsible for student conduct or their designee. The University response may be enforced with a trespass action as necessary.

d. A notation will be made on the student's transcript but will be removed after the suspension period ends.

e. Conditions, including the reapplication for admission, may be imposed on the student returning at the end of the specified period, but any such conditions must be reasonably related to the reasons for the suspension.

16. Expulsion

a. Expulsion is a permanent separation from the University of Nebraska.

b. An expelled student is precluded from registration, class attendance or participation, and residence on campus.

c. An expelled student is prohibited from entering University property, functions, events, and activities without prior written approval of the Vice Chancellor responsible for student conduct or their designee. This University response may be enforced with a trespass action as necessary.

d. A notation will be made on the student's transcript.

Additional Provisions Related to Sanctions:

1. If there is a dispute about whether a student or a student organization complied with any of the conditions imposed as part of the response to a violation, the dispute will be resolved through the Title IX Coordinator or as a Student Conduct matter.

   a. The factors relevant to the determination of the appropriate response(s) include, among others;

   b. the nature and seriousness of the conduct;

   c. the harm that the conduct caused or might have caused;

   d. the student's academic progress or experience;

   e. the student or student organization's acceptance of responsibility for the conduct;

   f. the student or student organization's efforts to conceal or avoid responsibility for the conduct;

   g. the student or student organization's explanations for the conduct;

   h. the student or student organization's prior record of violations; and

   i. the interests of the University, and the imposition of any sanctions pursuant to procedures other than those authorized by this Code (for example, sanctions imposed by a faculty member or by civil authorities).

2. Other than University Expulsion, disciplinary sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's confidential disciplinary record.

3. After graduation, and upon application to the Conduct Officer, the student's confidential disciplinary record may be expunged of disciplinary actions other than University Suspension or University Expulsion.

4. Cases involving the imposition of sanctions other than University Suspension or University Expulsion shall be expunged from the student's confidential record seven (7) years after graduation, final disposition of the case, or as otherwise authorized or required by law.

L. Remedies for Complainant

1. Where a determination of responsibility for sexual misconduct has been made against the Respondent, the University must provide or give the Complainant remedies. Remedies must be designed to restore or preserve equal access to the University's education program or activity. Such remedies may include the same supportive measures that are already being provided to the Complainant; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

2. The Title IX Coordinator is responsible for effective implementation of any remedies.

3. Where the final determination has indicated that remedies will be provided, the Complainant can then communicate separately with the Title IX Coordinator to discuss what remedies are appropriately designed to preserve or restore the Complainant's equal access to education.

4. Remedies that do not directly affect the Respondent must not be disclosed to the Respondent

M. Informal Resolution

1. Overview

At any time prior to reaching a determination regarding responsibility, the University may facilitate an Informal Resolution process, such as mediation, that does not involve a full investigation and adjudication. The University will not require the parties to participate in an Informal Resolution process and may not offer an Informal Resolution process unless a Formal Complaint is filed. Additionally, the University will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of sexual misconduct. The University will not offer or facilitate an Informal Resolution process to resolve allegations that an employee engaged in sexual misconduct against or sexually harassed a student.

The Informal Resolution process is facilitated by the Title IX Coordinator or their designee. The parties to any Informal Resolution process will not be required to deal directly with one another without the University's involvement.

An Informal Resolution may include the range of supportive measures described above, as well as targeted and/or broad-based training and educational programming for relevant individuals and groups and/or any other remedy. For example, both parties may agree that the permanent application of supportive measures (e.g. no contact agreement) may be sufficient to resolve the Formal Complaint. An Informal Resolution process may also include a remedies-based process, which allows both parties to come to a mutual agreement regarding the resolution of the Formal Complaint.

Once an Informal Resolution process is complete, both parties will be notified simultaneously/contemporaneously (to the greatest extent possible, and consistent with FERPA or other applicable law) of the resolution. The Informal Resolution process does not conclude with a University finding; the Respondent is not found to be "responsible" or "not responsible" of a Policy violation. However, the parties may negotiate the extent to which a Respondent may agree or concede responsibility for alleged misconduct.

Any party may request that the Informal Resolution process be terminated at any time, in which case the grievance process would proceed. The University may, at its discretion, also terminate the Informal Resolution Process at any time. In addition, while the results of the Informal Resolution process cannot be appealed, any party can withdraw from the Informal Resolution process and resume the grievance process with respect to the Formal Complaint.

2. General Provisions Related to Informal Resolution

a. At the beginning of the Informal Resolution process, the University will:

i. Provide to the parties a written notice disclosing:

a) the allegations,

b) the requirements of the Informal Resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and resume the grievance process with respect to the Formal Complaint, and

c) any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.

ii. Obtain the parties' voluntary, written consent to the Informal Resolution process; and

b. The University will provide the parties timely access to any information that will be used during the Informal Resolution process.

c. Any statements, admissions, or other statements made by the Complainant or Respondent during the Informal Resolution process may not be used as evidence if the matter proceeds to a Formal Hearing.

d. The Title IX Coordinator or their designee must approve the terms of any Informal Resolution.

e. The Respondent may be subject to discipline for potential violations of policies in addition to the Sexual Misconduct Policy outside of the Informal Resolution Process. However, the Informal Resolution process may also address other potential violations of policies in addition to the Sexual Misconduct Policy.

f. Informal Resolution procedures may be discontinued at the request of any party or terminated by the Title IX Coordinator or their designee.

g. If the University and parties do not reach an agreement to resolve the Formal Complaint through the Informal Resolution process, the grievance process will be resumed with respect to the Formal Complaint, including investigation and adjudication and any Formal Hearing.

N. Retaliation

No member of the University community may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the Sexual Misconduct Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Sexual Misconduct Policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for Student Code of Conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by the Sexual Misconduct Policy, constitutes retaliation.

O. Periodic Review

This Sexual Misconduct Procedures will be reviewed at least every two (2) years. The Provost will initiate this review.

P. Effective Date

These Procedures apply to reports of sexual misconduct received by the Title IX Coordinator on or after August 14, 2020, except that definitions from the Policy in place at the time the alleged prohibited conduct occurred will be used to make the decision on responsibility.