



Non-Title IX Prohibited Conduct Policy

1.0. PHILOSOPHY

Dominican University (hereinafter “the University”) is committed to ensuring a just and humane campus where all community members have the capacity to thrive. The Title IX Coordinator works in partnership with community stakeholders to support the culture of equity and inclusion that is critical to the University’s mission and identity. When the behavior of some community members challenges the well-being of others, the Title IX Coordinator, in conjunction with relevant University officials determines, to the extent possible, whether the University’s policies related to Title IX and sex discrimination were violated.

To ensure the University’s ability to foster a just and humane campus for all, violations of these policies will not be tolerated. As such, the University community is asked to report incidents that may violate University anti-discrimination and sexual misconduct policies so that efforts can be made to end discriminatory and harassing conduct based on protected characteristics, prevent its reoccurrence, and, where possible, remedy its effects. The University takes these reports seriously and is therefore committed to following up on reports of alleged violations of this Policy.

1.1. Policy Statement

The University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination and harassment based on sex¹, and retaliation for engaging in a protected activity (hereinafter “Prohibited Conduct”).

The University values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the grievance process (Appendix A) during what is often a difficult time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, the University has developed policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sex discrimination, sex-based harassment, or retaliation.

¹ Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and gender expression.

1.2. Policy Scope

This Policy is only applicable to alleged incidents that occur on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator and on the University Equity webpage.

This Policy applies to all faculty, employees, students, and other individuals participating in or attempting to participate in the University's program or activities, including education and employment.

This Policy prohibits all forms of sex discrimination, and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

Prohibited Conduct

1.3. Title IX Coordinator

The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent sex discrimination, sex-based harassment, or retaliation prohibited under this Policy.

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific complaint, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the Vice President of Justice, Equity, & Inclusion (JEI). Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

1.4. Reports/Complaints of Sex Discrimination, Sex-Based Harassment, and/or Retaliation

Reports or complaints of sex discrimination, sex-based harassment, or retaliation may be made using any of the following options:

1. Contact the Title IX Coordinator Kstaros@dom.edu
2. Contact any representative of the campus (*e.g.*, the Student Success & Engagement Office, Campus Safety, Residence Life, Human Resources, the Provost's Office, University Ministry, a faculty member, or a staff member)

Last edited: 7/31/24/31/24

3. Report online: [Title IX/Bias Reporting Form](#)

Anonymous reports are accepted but can give rise to a need to investigate to determine if the Parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. The University tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant.

Because reporting carries no obligation to initiate a formal response, and because the University respects Complainant requests for confidentiality unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows the University to discuss and/or provide supportive measures.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

For complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#) (EEOC).

1.5. Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged Prohibited Conduct. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all Parties and/or the University's educational environment and/or to deter sex discrimination, sex-based harassment, or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving a report or complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a complaint with the University either at that time or in the future, if they have not done so already. The Title IX

Coordinator works with the Complainant to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

The University will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair the University's ability to provide those supportive measures. The University will act to ensure as minimal an academic/occupational impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other Party.

These actions may include, but are not limited to:

- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Implementing contact limitations (no contact orders) between the Parties
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Increased security and monitoring of certain areas of the campus
- Providing campus safety escorts
- Providing transportation assistance
- Timely warnings
- Safety planning
- Student financial aid counseling
- Visa and immigration referrals
- Referral to the Employee Assistance Program
- Education to the institutional community or community subgroup(s)
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

1.6. Promptness

Once the University has received notice or a complaint, all allegations are promptly acted upon. Complaints typically take 60-90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in University procedures will be delayed, the University will provide written notice to the parties of the delay, the cause for the

delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

1.7. Jurisdiction

This Policy applies to the University's education program and activities, to conduct that takes place on property owned or controlled by the University, at University-sponsored events, and in buildings owned or controlled by the University's recognized student organizations. The Respondent must be a member of University community in order for this Policy to apply.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprives a person of access to the University's education program or activities. The University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest.

Regardless of where the conduct occurred, the University will address reports/complaints to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing effects on campus (including virtual learning and employment environments) or in an off campus sponsored program or activity. A substantial University interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.
3. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4. Any situation that substantially interferes with the educational interests or mission of the University.

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will assist the Complainant in identifying appropriate institutional and local resources and support options. If criminal conduct is alleged, the University can assist in contacting local or institutional law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator.

In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers and/or to these Policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse.

1.8. Online Harassment and Misconduct

The University policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the University's education program and activities, or when they involve the use of University networks, technology, or equipment.

Although University may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to University, it will engage in a variety of means to address and mitigate the effects. [These means may include use of the Resolution Process to address off-campus conduct whose effects contribute to limiting or denying a person access to University's education program or activity].

1.9 Inclusion Related to Gender Identity/Expression

The University strives to ensure that all individuals are safe, included, and respected in their working and learning environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees.

Discrimination and harassment on the basis of gender identity or expression are not tolerated by the University. If a member of the University community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

1.X Emergency Removal

At any time after receiving a report of Prohibited Conduct, the Title IX Coordinator may remove a student Respondent from one or more of the University's education programs and activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct justifies removal.

When an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon as reasonably possible thereafter, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested, in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to, removing a student from a residence hall, restricting a student's or employee's access to or use of facilities, allowing a student to withdraw or take incomplete grades without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural/club athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact on the parties as possible.

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the University may place the Respondent on administrative leave at any

time after receiving a report of Prohibited Conduct, including during the pendency of the investigation and adjudication process.

1.9. Privacy/Confidentiality

Every effort is made by the University to preserve the privacy of reports.² The University will not share the identity of any individual who has made a report or complaint of sex discrimination, sex-based harassment, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of sex discrimination, sex-based harassment, or retaliation; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA) or its implementing regulations, or as required by law; or to carry out the resolution process, including any investigation, hearing, or informal resolution proceeding arising under this Policy.

The University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of University officials who need to know will typically be told about the complaint. Information will be shared as necessary with Investigators, Review Board members, witnesses, and the Parties. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties' rights and privacy.

The University may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

The Resolution Process (as outlined in Section 8.0 below) is private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accord with University Policy.

² For the purpose of this Policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of University employees who "need to know" to assist in the assessment, investigation, and resolution of the complaint. All employees who are involved in the University's response to notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA). The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws (including Title IX) that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain healthcare providers, mental healthcare providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The University has designated individuals who have the ability to have privileged communications as Confidential Resources, as outlined in Section 5.0.

While there is an expectation of privacy around what is discussed during the Resolution Process, the Parties have discretion to share their own experiences with others if they so choose but are encouraged to discuss with their Advisors first before doing so.

Unauthorized Disclosure of Information

Parties and Advisors are prohibited from disclosing information obtained by the Recipient through the Resolution Process, to the extent that information is the work product of the Recipient (meaning it has been produced, compiled, or written by Recipient for purposes of its investigation and resolution of a Complaint), without authorization. It is also a violation of Recipient Policy to publicly disclose institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

2.0. PROHIBITED CONDUCT

Students and employees are entitled to an educational and employment environment that is free of sex discrimination, sex-based harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited sex discrimination, sex-based harassment, and retaliation that are also prohibited under Recipient Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of Recipient Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

Sex Discrimination

Sex discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived sex.

Discrimination can take two primary forms:

1) Disparate Treatment Discrimination:

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived sex and that:
 - Excludes a person from participation in;
 - Denies a person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a Recipient program or activity.

2) Disparate Impact Discrimination:

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on the basis of sex that:
 - Excludes a person from participation in;
 - Denies a person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a Recipient program or activity.

Sex-based Harassment (Applicable under Title IX, Title VII, and the Fair Housing Act)

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,³ including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

1) Quid Pro Quo:

- an employee agent, or other person authorized by the Recipient,
- to provide an aid, benefit, or service under the Recipient's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

2) Hostile Environment Harassment:

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from the Recipient's education program or activity

The University reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not prohibited by law. Addressing such conduct will not result in the imposition of discipline under Recipient Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Administrator.

3) Sexual Assault:⁴

a. Rape:

- Penetration, no matter how slight,
- of the vagina or anus,
- with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

b. Fondling:

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a 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 <<state>> law.

d. Statutory Rape:

- Sexual intercourse,
- with a person who is under the statutory age of consent of <<age>>.

4) Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

- i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b) Dating violence does not include acts covered under the definition of domestic violence.

5) **Domestic Violence**,⁵ defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of <<state>>, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of <<state>>.

6) **Stalking**, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

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

Sexual Misconduct

1) Sexual Exploitation:⁶

- a person taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based Harassment as defined above,
- for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) a person's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never

happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)

Other Prohibited Conduct

1) Bullying:⁷

- repeated and/or severe aggressive behavior
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
- that is not speech or conduct that is otherwise protected by the First Amendment.

2) Endangerment:

- threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

3) Hazing:

- any act or action
- which does or is likely to endanger the mental or physical health or safety of any person
- as it relates to a person's initiation, admission into, or affiliation with any Recipient group or organization.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the student group or student organization, for an allegation of hazing to be upheld.
- It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.
- The actions of alumni, active, new, and/or prospective members of a student group or student organization may be considered hazing.
- Hazing is not confined to the student group or student organization with which the person subjected to the hazing is associated.

4) Retaliation:

- Adverse action, including intimidation, threats, coercion, or discrimination,
- against any person,
- by the Recipient, a student, employee, or a person authorized by the Recipient to provide aid, benefit, or service under the Recipient's education program or activity,
- for the purpose of interfering with any right or privilege secured by law or Policy, or
- because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under the <<Policy>> Procedures, including an Informal Resolution process, or in any other appropriate steps taken by the Recipient to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for the Recipient to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the <<Policy>>. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

5) Unauthorized Disclosure:⁸

- Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the Recipient; or
- publicly disclosing institutional work product that contains personally identifiable information without authorization or consent.

6) Failure to Comply/Process Interference

- Intentional failure to comply with the reasonable directives of Administrator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an Informal Resolution agreement
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Resolution Process, including, but not limited to:

- Destruction of or concealing of evidence
- Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
- Intimidating or bribing a witness or party

The University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or dismissal/termination, for any offense under this Policy. The most serious offenses are likely to result in suspension/dismissal/termination.

3.0. DEFINITIONS AND DIMENSIONS OF CONSENT

Consent is an informed, freely given, and mutually understood agreement to participate in specific sexual acts with another person that is not achieved through unreasonable manipulation or coercion—or any kind of physical force or weapon—and requires having cognitive ability to agree to participate. Consent requires an outward demonstration, through mutually understandable words, conduct or action, indicating that an individual has freely chosen to engage in the specific sexual acts. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.

3.1. What is Consent?

- Silence or lack of physical or verbal resistance does not imply consent.
- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- Consent cannot be inferred from a person’s manner of dress.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Consent to past sexual activity does not constitute consent to future sexual activity.
- Consent can be withdrawn at any time. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent. When consent is withdrawn, sexual activity must immediately stop.
- Being in a romantic relationship with someone does not imply consent to sexual activity. Even in the context of an ongoing relationship, consent must be sought and freely given for each specific sexual act.
- Effective consent may not exist when there is a disparity in power between the parties (e.g., faculty/student, supervisor/employee).
- A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:
 - The individual is incapacitated due to drug or alcohol consumption, either voluntarily or involuntarily;

- The individual is unconscious, asleep, or otherwise unaware that sexual activity is occurring;
- The individual is below the minimum age of consent in the applicable jurisdiction (17 years in Illinois); or
- The individual has a mental disability that impairs his or her ability to provide consent.

3.2. Communicating consent

While verbal consent is not an absolute requirement for consensual sexual activity, verbal communication prior to engaging in sex helps to clarify consent. Communicating verbally before engaging in sexual activity is imperative. A person who is passive, unresponsive, or actively resists is demonstrating defective or withdrawn consent.

3.3. Individuals who are unable to give consent:

- Persons who are asleep or unconscious
- Persons who are incapacitated due to the influence of drugs, alcohol or medication
- Persons who are unable to communicate consent due to mental or physical conditions.
- Persons who have not reached the age of consent. The age of consent in Illinois is 17 but rises to 18 if the accused is a family member or holds a position of trust, authority or supervision in relation to the victim/survivor.

3.4. Coercion and Force

Consent must happen without force or coercion. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Proving the use of physical force is not necessary to show that sexual activity was coerced or non-consensual. Coercion is the use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Examples of coercion include but are not limited to:

- threatening to "out" someone based on sexual orientation, gender identity, or gender expression
- threatening to harm oneself if the other party does not engage in the sexual activity
- threatening to harm the person who does not engage in the sexual activity

- threatening to tell others private or intimate information one has shared, or information about sexual activities, if one does not engage in certain sexual behaviors

3.5 Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

4.0. RETALIATION

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The University and any member of the University’s community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or 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 this Policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Pursuing a code of conduct violation for making a materially false statement in bad faith in the course of a resolution process under this Policy and procedure does not constitute retaliation, provided that the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

5.0. MANDATORY REPORTING AND CONFIDENTIALITY

The University makes students, administrators, faculty, and staff aware of the various reporting and confidential disclosure options available to them – so they can make informed choices. The University encourages anyone who experiences any kind of Prohibited Conduct to talk to someone identified in one or more of these groups but to be aware that different employees on campus have different abilities to maintain a Complainant's confidentiality.

5.1. Mandated Reporters

All University employees, including administrators, faculty, staff, contracted employees, and designated student employees; (*i.e.*, Circulation Desk Attendants, Peer Advisors, Resident Advisors, Campus Safety, Welcome Desk Workers, and University Ministry Student Staff) are required to report all details of an alleged incident of Prohibited Conduct (including the identities of both the Complainant and Respondent) to the Title IX Coordinator.

5.2. Confidential Employees

Licensed Mental Health Professionals and employees functioning within the scope of their employment and who are supervised by University employees with a professional license cannot disclose confidential information. These employees can maintain near complete confidentiality regarding Prohibited Conduct disclosed to them which is sometimes called a "privileged communication."

Members of the Mission & Ministry team are not confidential employees.

5.3. Confidentiality within the Roman Catholic Sacrament of Reconciliation and Penance

As a Catholic, Dominican institution, the University believes that the dignity of the human person and her or his restoration of right relationship with God and others is central to the profession and practice of any faith. In Roman Catholicism, the Sacrament of Reconciliation or Penance is a moment of sacred grace through healing. For Roman Catholic faculty, staff, and students, Reconciliation is made available by request or through general pastoral offerings of the University Ministry Center. For baptized Roman Catholics, the information shared within the confessional space of the Sacrament is completely confidential and remains under what the Church calls the sacramental seal. The seal prevents the confessor from sharing any information because it is "sacred, and cannot be violated under any pretext" (Catechism of the Catholic Church 2490). As such, a Roman Catholic priest in good standing serving as a confessor on the

University's campus shall not be required to report any information disclosed in the confessional space.

5.4. Complainant Requests for Confidentiality

Complainants have the right to request confidentiality. When deciding how they want to proceed, Complainants must weigh the fact that maintaining confidentiality can impact the University's ability to adequately investigate a particular incident or to pursue appropriate action against a Respondent.

A Complainant who first requests confidentiality may later decide to file a complaint with the University or report the incident to local law enforcement, and thus have the incident fully investigated. The Title IX Coordinator will provide the Complainant with assistance if the Complainant decides to file a complaint.

5.4.1. Requesting Confidentiality from the University

If a Complainant discloses an incident to a mandated reporter (as described above) but wishes to maintain confidentiality or requests that no investigation be conducted or disciplinary action taken, the University will weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all. The mandated reporter must report to the Title IX Coordinator, and the Title IX Coordinator will assess the request for confidentiality.

If the University honors the Complainant's request for confidentiality, the Complainant must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the Respondent(s) may be limited.

When weighing a Complainant's request for confidentiality or request that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- An increased risk that the Respondent will commit additional acts of Prohibited Conduct,
- Whether there have been other Prohibited Conduct complaints about the same Respondent;
- Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether the Respondent threatened further Prohibited Conduct or other violence against the Complainant or others;
- Whether the Prohibited Conduct was committed by multiple Respondents;
- Whether Prohibited Conduct was perpetrated with a weapon;
- Whether the Complainant is a minor;
- Whether the University possesses other means to obtain relevant evidence of the violence (e.g., security cameras or personnel, physical evidence);

- Whether the Complainant's report reveals a pattern of inappropriate conduct (*e.g.*, via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors are present, the University will likely respect the Complainant's request for confidentiality.

If the University determines that it cannot maintain a Complainant's confidentiality, the University will inform the Complainant prior to commencing an investigation and will, to the extent possible, only share information with individuals responsible for coordinating the University's response.

The University will remain mindful of a Complainant's well-being and will take ongoing steps to protect the Complainant from retaliation or harm and/or work with the Complainant to create a safety plan. The University will partner with campus-based resources and community organizations as appropriate to protect the Complainant's well-being.

Dominican University will also:

- assist the Complainant in accessing other available advocacy, academic support, counseling, disability, and health or mental health services;
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the Respondent pending the outcome of an investigation) or adjustments for assignments or tests;
- inform the Complainant of the right to report a crime to campus or local law enforcement (or not to do so) – and provide the Complainant with assistance if the Complainant wishes to do so.

5.5. Community Alerts

If the University determines that the alleged Respondent(s) pose a serious and immediate threat to the University community, the Title IX Coordinator or Campus Safety may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the Complainant to the extent permitted by law. The University may have other reporting obligations under state, federal, or local laws. Complainants will be notified whenever these reporting obligations apply to the incident.

5.6 Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. The Recipient will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purpose of collecting forensic evidence.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time-stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

6.0. AMNESTY

To encourage reporting, the University pursues a policy of offering witnesses and individuals who wish to report incidents limited amnesty from being charged for policy violations, such as alcohol or drug use. While violations cannot be completely overlooked, the University will provide educational rather than punitive responses in such cases. The seriousness of Prohibited Conduct is a major concern, and the University does not want any of the circumstances (*e.g.*, drug or alcohol use) to inhibit the reporting of Prohibited Conduct. However, the University reserves the right to require counseling, education, or other preventative measures to help prevent alcohol or drug violations in the future. The University's commitment to amnesty in

these situations does not prevent action by police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

7.0. RIGHT TO AN ADVISOR

Each Party may choose an Advisor⁹ who is eligible and available¹⁰ to accompany them throughout the process. The Advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

The University may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

7.1. Advisor Expectations

Advisors are expected to consult with their advisees without disrupting University meetings or interviews. Advisors do not represent parties in the process; their role is only to advise. The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned, but the University may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

Parties whose Advisors are disruptive or who do not abide by University policies and procedures may face the loss of that Advisor and/or possible Policy violations.

7.2. Expectations of the Parties with Respect to Advisors

The Parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time.

Upon written request of a party, the University will copy the Advisor on all communications between the University and the Party. The Advisor may be asked to sign a non-disclosure agreement (NDA) regarding private, sensitive records.

8.0. RESOLUTION PROCESS

⁹ This could include an attorney, advocate, or support person. Witnesses are not entitled to Advisors within the process, though they can be advised externally.

¹⁰ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

The University will act on any formal or informal allegation or notice of violation of this Policy that is received by the Title IX Coordinator¹¹ or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated above.

The procedures described below apply to all allegations of Prohibited Conduct involving students, administrators, staff, faculty members, or third parties.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with Prohibited Conduct (*e.g.*, vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

8.1. Stage 1: Initial Assessment, Counterclaims, and Informal Resolution

8.1.1. Initial Assessment

Following intake, receipt of notice, or a complaint of an alleged violation of this Policy, the Title IX Coordinator¹² engages in an initial assessment, which is typically one to five (1-5) business days in duration. The steps in an initial assessment can include:

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they have an Advisor.
- The Title IX Coordinator works with the Complainant to determine which of three options to pursue: Supportive Measures Only¹³, Informal Resolution¹⁴, or Formal Resolution¹⁵.
 - If Supportive Measures Only is preferred, the Title IX Coordinator works with the Complainant to identify their needs and then seeks to facilitate implementation. A Formal Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
 - If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution, which informal mechanism may serve the situation best or is available and may

¹¹ All references herein to a Title IX Coordinator also include a designee of the Title IX Coordinator.

¹² If circumstances require, the Vice President of JEI or the Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

¹³ **Supportive Measures Only** – measures to help restore the Complainant’s education access, as described in the Policy.

¹⁴ **Informal Resolution** – typically used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating policy.

¹⁵ **Formal Resolution** – investigation of alleged Policy violation(s) and recommended finding, subject to a determination by the Review Board and the opportunity to appeal.

seek to determine if the Respondent is also willing to engage in Informal Resolution.

- If Formal Resolution is preferred, the Title IX Coordinator initiates the investigation process and determines whether the scope of the investigation will address:
 - An incident
 - A potential pattern of misconduct
 - A culture/climate issue

The Title IX Coordinator may consult with Campus Safety, in cases where conduct violations or threats to individual or campus safety are concerned, and other University Administrators, as appropriate.

The University will act on all reports of alleged Prohibited Conduct. Complaints will be investigated unless the initial assessment determines that one or more of the following conditions apply:

- The alleged conduct is not a violation under the Policy,
- Another adjudicatory process has jurisdiction over the alleged conduct,
- The complaint can be resolved through Informal Resolution,
- There is not enough information to proceed with the complaint,
- There are extenuating circumstances that might affect the need for a full investigation of the complaint, or
- The Complainant requests confidentiality or a supportive response and that request can be granted.

In the case of an anonymous report or where a Complainant's request for confidentiality cannot be granted, the University may initiate the Formal Resolution Process.

8.1.2. Dismissal

The Recipient may dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

- 1) The Recipient is unable to identify the Respondent after taking reasonable steps to do so
- 2) The Recipient no longer enrolls or employs the Respondent
- 3) A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Administrator declines to initiate a Complaint
- 4) The Recipient determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

In addition to other members of the <<Title IX Team>>, as authorized by the Administrator, a Decision-maker can recommend dismissal to the Administrator if they believe the grounds

are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, the Recipient will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the Recipient will also notify the Respondent of the dismissal.

This dismissal decision is appealable by any party.

8.1.3 Appeal of Dismissal

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Administrator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Administrator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal appeal process, the Recipient will:

- Implement dismissal appeal procedures equally for the Parties.
- Assign a trained Dismissal Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint.
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal.
- Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for dismissal appeals are limited to:

- 1) Procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was decided.
- 3) The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

The appeal request should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Administrator will share the request with all other Parties and provide three (3) business days for other Parties and the Administrator to respond to the request. At the conclusion of the response period, the

Administrator will forward the appeal, as well as any response provided by the other Parties and/or the Administrator to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the Dismissal Appeal Officer will deny the request, and the Parties, their Advisors, and the Administrator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Dismissal Appeal Officer will notify all Parties and their Advisors, and the Administrator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal, though extensions can be granted at the Administrator's discretion, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Officer may consult with the Administrator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Administrator will maintain documentation of all such consultation.

8.1. X Counterclaims

Counterclaims by the Respondent may be made in good faith or may instead be motivated by a retaliatory intent. The University is obligated to ensure that any process is not abused for retaliatory purposes.

The University permits the filing of counterclaims, but uses the initial assessment, described above, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation. Counterclaims made with retaliatory intent will not be permitted.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

8.1.3. Informal Resolution

Informal Resolution is applicable when the Parties voluntarily agree to resolve the matter through Alternative Resolution (*i.e.*, mediation, restorative practices, facilitated dialogue,

etc.), when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation.

It is not necessary to pursue Informal Resolution first in order to pursue Formal Resolution, and any Party participating in Informal Resolution can stop the process at any time and request the Formal Resolution process. Further, if an Informal Resolution fails, Formal Resolution may be pursued.

8.1.3.1. Alternative Resolution

Alternative Resolution is an informal process, such as mediation or restorative practices, by which the Parties mutually agree to resolve an allegation. It may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Formal Resolution process (described below) to resolve conflicts, as appropriate. The Parties must provide written consent to use Alternative Resolution.

The Title IX Coordinator determines if Alternative Resolution is appropriate, based on the willingness of the Parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternative Resolution.

In an Alternative Resolution, a trained administrator or third party facilitates communication among with the Parties to an effective resolution, if possible. Institutionally imposed sanctions are not possible as the result of an Alternative Resolution process, though the Parties may agree to accept sanctions and/or appropriate remedies.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Alternative Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though similarly structured conversations may be made available after the Formal Resolution process is completed should the parties and the Title IX Coordinator believe it could be beneficial. The results of Alternative Resolution are not appealable.

When an investigation as outlined in Stage 2 below has already commenced, the Title IX Coordinator has discretion to determine if the investigation will be paused during Alternative Resolution, or if it will be limited, or will continue during the Alternative Resolution process.

8.1.3.2. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent accepts responsibility, the Title IX Coordinator determines that the individual is in violation of University policy.

The Title IX Coordinator then works with appropriate University officials to determine appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the Prohibited Conduct; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all the alleged policy violations and the appropriate University officials have determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented, the process is over. The Complainant may be consulted on and will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the appropriate University officials have determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented for those violations, then the remaining allegations will continue to be investigated and resolved through Formal Resolution. The parties will be informed of this outcome. The parties are still able to seek Alternative Resolution on the remaining allegations, subject to the stipulations above.

8.2. Stage Two: Formal Investigation Resolution Process Pool

The Resolution Process relies on a pool of administrators (“the Pool”) to carry out the process.

Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Title IX Coordinator:

- Appropriate intake of and initial guidance pertaining to Complaints
- Advisor to Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker for challenges to emergency removal and supportive measures
- Decision-maker
- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

Pool Member Appointment

The Title IX Coordinator [, in consultation with senior administrators as necessary,] appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints, the University can also designate permanent roles for individuals in the Pool.

Notice of Investigation and Allegations (NOIA)

Prior to an investigation, the Title IX Coordinator will provide the Parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to notify the Title IX Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process,
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties and their Advisors (if applicable) may not share University work product obtained through the Resolution Process
- A statement that the Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process

- Detail on how a party may request disability accommodations or other support assistance during the Resolution Process
- A link to the University's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations
- [A statement that Parties who are members of a union are entitled to union representation throughout the process]

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official University records, or emailed to the Parties' University-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

Resolution Timeline

The University will make a good faith effort to complete the Resolution Process within sixty to ninety (60-90) business days, including any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, the University reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. The University will promptly resume its Resolution Process as soon as feasible. During such a delay, University will implement and maintain supportive measures for the Parties as deemed appropriate.

University action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

The University will make a good faith effort to complete the Resolution Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-makers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Vice President of OJEI

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

Investigator Appointment

Once an investigation is initiated, the Title IX Coordinator appoints an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other properly trained Investigator, whether internal or external to the University's community.

Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate in the University's investigation and Resolution Process. Student witnesses and witnesses from outside the University community cannot be required to participate but are encouraged to cooperate with University investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. The University will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

Interview Recording

It is standard practice for Investigators to create record of all interviews pertaining to the Resolution Process. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may pose additional questions to each other. Those subsequent meetings or interviews are also recorded and/or transcribed and shared with the Parties.

Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant Evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

The fact of prior consensual sexual conduct occurred between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion. The Complainant retains their right to appeal a determination when a Respondent admits responsibility.

Investigation

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviewing all relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

The University may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all offenses implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the Title IX Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the Title IX Coordinator, as necessary, to prepare the initial NOIA. The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.

- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- Interview the Complainant and the Respondent and conduct any necessary follow-up interviews with each.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document which questions were asked with a rationale for any changes or omissions in the investigation report.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Prior to the conclusion of the investigation, provide the Parties and their respective Advisors with a list of witnesses whose information will be used to render a finding.
- Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all relevant evidence.
- Provide the Parties and their respective Advisors an electronic copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigator may share the investigation report with the Title IX Coordinator and/or legal counsel for their review and feedback.

Administrative Resolution Process

The Administrative Resolution Process is used for all Complaints of discrimination on the basis of protected characteristics, harassment, retaliation, and Other Prohibited Behaviors (as defined in Policy) or when Informal Resolution is either not elected or is unsuccessful.

The Administrative Resolution Process consists of a hand-off of the investigation report and all relevant evidence to the Decision-maker to make a finding and determine sanctions (if applicable).

At the discretion of Title IX Coordinator, the assigned Decision-maker will be an individual or a panel drawn from the Resolution Process Pool, or other trained individuals either internal or external to the institution.¹⁶ Once the Decision-maker receives and reviews the file, they can recommend dismissal to the Title IX Coordinator, if they believe the grounds are met.

The Administrative Resolution Process typically takes approximately thirty (30) business days to complete, beginning with the Decision-maker's receipt of the Draft Investigation Report. The Parties will be regularly updated on the timing and any significant deviation from this typical timeline.

Investigator-led Questioning Meetings

- The Title IX Coordinator provides the Draft Investigation Report to the Decision-maker and the Parties simultaneously for review. The Decision-maker can then provide the Investigator with a list of relevant questions to ask the Parties or any witnesses.
 - To the extent credibility is in dispute and relevant to one or more of the allegations, the questions provided by the Decision-maker may also explore credibility.
- The Investigator will also ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses.
 - To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
 - All party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Decision-maker.
 - The Investigator will share all party-proposed questions with the Decision-maker, who will finalize the list with the Investigator to ensure all questions are both relevant and permissible.
- The Investigator will then hold individual meetings with the Parties and witnesses to ask the questions posed by the Decision-maker, as well as the questions proposed by the Parties that have been deemed relevant and not duplicative, including questions intended to assess credibility. These meetings will be recorded and transcribed.
 - For any question deemed not relevant or duplicative, the Investigator will provide a rationale for not asking the question, either during the recorded meeting, or in writing (typically as an appendix to the Final Investigation Report).
- Typically, within three (3) business days of the last of these meetings, the recordings or transcripts of them will be provided to the Parties for their review. The Parties will then have five (5) business days to review these recordings or transcripts and propose any follow-up questions for the Investigator to ask.
- The Investigator will review the proposed questions with the Decision-maker to determine relevance and permissibility. If deemed necessary, the Investigator will then meet individually with the Parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. These follow-up meetings will also be recorded, and

the Parties will receive the recordings or transcripts of these meetings. This final round of questioning is the last round permitted, unless permission is granted to extend by the Decision-maker.

- The Investigator will then incorporate any new, relevant evidence and information obtained through the Parties' review of the Draft Investigation Report, the questioning, and follow-up meetings into a Final Investigation Report.
- The Investigator will also respond in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report and incorporate relevant elements of the Parties' written responses, additional relevant evidence, and any necessary revisions into the Final Investigation Report.
- The Investigator will then share the Final Investigation Report with the Title IX Coordinator and/or legal counsel for their review and feedback.
- The Investigator will then provide the Administrator with the Final Investigation Report and investigation file.

The Decision-maker's Determination

- The Title IX Coordinator will provide the Decision-maker, the Parties, and their Advisors with the Final Investigation Report (FIR) and investigation file, including the evidence and information obtained through the Investigator-led Questioning meetings.
- The Decision-maker will review the FIR, all appendices, and the investigation file.
- If the record is incomplete, the Decision-maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informal meetings with the Parties or any witnesses, if needed.
- Upon reviewing the relevant evidence, the Decision-maker may also choose to pose additional questions:
 - To the extent credibility is in dispute and relevant to one or more of the allegations, the Decision-maker may meet individually with the Parties and witnesses to question them in order to assess their credibility. These meetings will be recorded, and the recording or transcript will be shared with the Parties.
 - At their discretion, the Decision-maker may also meet with any party or witness to ask additional relevant questions that will aid the Decision-maker in making their findings. These meetings will be recorded, and the recording or transcript will be shared with the Parties.
- The Decision-maker will then apply the preponderance of the evidence standard to make a determination on each of the allegations and, if applicable, any associated sanctions.
- **Timeline.** The Decision-maker's determination process typically takes approximately ten (10) business days, but this timeframe can vary based on a number of factors and variables. The Parties will be notified of any delays.
- **Impact Statements.** Prior to a determination, the Title IX Coordinator will also provide the Parties with an opportunity to submit a written impact and/or mitigation statement. The Title IX Coordinator will review these statements upon receipt to determine whether there are any immediate needs, issues, or concerns, but will otherwise hold

them until after the Decision-maker has made determinations on the allegations. If there are any findings of a Policy violation, the Decision-maker will request the Impact Statements from the Title IX Coordinator and review them prior to determining sanctions. They will also be exchanged between the Parties at that time.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a Resolution Process at any time, and/or referring that information to another process for resolution

8.3.3. Sanctioning

In making the final determination on sanctions and other corrective actions, a history of the Respondent's conduct/policy violations may be considered. The range of potential sanctions or corrective actions that may be imposed against a student, faculty, or staff includes but is not limited to: written or verbal apology, discrimination or harassment education, verbal or written warning, probation, suspension, termination, or dismissal from the University. Employees are advised to consult any relevant handbooks for additional information regarding disciplinary action. Guests and other third parties who are found to have violated this Policy are subject to corrective action as deemed appropriate by the University, which may include removal from the University and termination of any applicable contractual or other arrangements.

8.4. Step 4: Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the Notification of Outcome. A single Appeal Officer who has not previously been involved in the process will be designated by the Title IX Coordinator.¹⁷

Any Party may appeal, but appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
- 3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome.
1. The sanctions imposed fall outside the range of sanctions the University has designated for the violation(s) and the cumulative disciplinary record of the Respondent.

The appeal request will be forwarded to the Appeal Officer for consideration and to determine if the request meets the grounds for appeal (a Review for Standing). The Appeal Officer may

consult with appropriate individuals to assist with the Review for Standing of the appeal request. The Review for Standing is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds for appeal and is timely filed.

If any of the grounds in the appeal request do not meet the grounds in this Section, the request will be denied by the Appeal Officer and the Parties notified in writing of the denial and rationale.

If any of the grounds in the appeal request meet the grounds in this Section, the Appeal Officer will notify the Title IX Coordinator, who will share the appeal request with all other Parties or other appropriate persons such as the Investigator. Any response to the appeal must be filed in writing within five (5) business days. Another Party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing Party will be permitted to submit a written response to these new grounds within five (5) business days. These responses or appeal requests will be shared with each Party. The Appeal Officer will review the appeal request(s) within five (5) business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the Appeal Officer dismisses the appeal.

When the Appeal Officer finds that at least one of the grounds is met by at least one Party, the Appeal Officer will gather any additional information needed and all documentation regarding the approved grounds for appeal. The Appeal Officer will render a decision within ten (10) business days, barring exigent circumstances. The preponderance of the evidence standard is used. The Appeal Officer will notify the Title IX Coordinator of their decision and will work with the Title IX Coordinator to finalize a notice of the appeal outcome.

A notice of the appeal outcome will be sent to all Parties simultaneously. The notice will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings. Notice will be shared with the Parties within five (5) business days of notification to the Title IX Coordinator of the Appeal Officer's decision, absent extenuating circumstances. Notification will be made in writing and will be delivered by email to the Parties' University-issued email or otherwise approved account. Once emailed, notice will be presumptively delivered.

When the Appeal Officer finds that at least one of the grounds is met by at least one Party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Officer are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.

- An appeal is not an opportunity for the Appeal Officer to substitute their judgment for that of the original Investigator or Review Board merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigator for reconsideration. Other appeals should be remanded at the discretion of the Appeal Officer.
- Sanctions imposed as the result of the Formal Resolution Process are implemented immediately unless the Title IX Coordinator stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
 - For students: Graduation, study abroad, internships/externships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand.
- In rare cases when a procedural or substantive error cannot be cured by the original Investigator and/or Review Board or the Title IX Coordinator (as in cases of bias), the Appeal Officer may recommend a new investigation and/or Formal Resolution Process, including a new Review Board.
 - The results of a new Formal Resolution Process can be appealed once, on any of the three applicable grounds for appeals.
- In cases in which the appeal results in Respondent's reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable.

8.5. Withdrawal or Resignation During the Formal Resolution Process

8.5.1 Students

If a student has an allegation pending for violation of this Policy, the University may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma. If a student decides not to participate in the resolution process, the process will proceed to resolution without their participation.

If the student Respondent withdraws or takes a leave for a specified period of time (*e.g.*, one semester or term), the resolution process may continue remotely, and that student Respondent will not be permitted to return to the University unless and until the resolution process has been completed and all sanctions (if applicable) have been satisfied. They may also be barred from University property and/or events until the resolution process has been completed and all sanctions (if applicable) have been satisfied.

During the resolution process, the University may put a hold on a Respondent's transcript or place a notation on a Respondent's transcript that a disciplinary matter is pending.

The University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Prohibited Conduct.

8.5.2. Employees

If an employee Respondent resigns while allegations remain unresolved, the University's formal resolution process may be limited, as disciplinary action cannot be pursued once the individual is no longer employed by the University. Nevertheless, the University remains committed to addressing any systemic issues, factors contributing to the alleged violation(s), and mitigating any continuing impacts of the alleged Prohibited Conduct.

The resignation of an employee Respondent under such circumstances will be documented, and the individual will not be considered eligible for future employment at the University. This status will be communicated to the Title IX Coordinator and maintained in their records. Human Resources and any relevant University hiring authorities will be informed accordingly.

In response to inquiries for employment references about the individual, it will be noted that the individual resigned while a disciplinary matter was pending. It is crucial to handle such communications with due regard for privacy and legal constraints, ensuring that all statements are factual and free from speculation.

8.6. Long Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the campus community that are intended to stop the Prohibited Conduct, remedy the effects, and prevent reoccurrence.

These remedies/actions may include one or more of the following, but are not limited to:

- Referral to counseling and health services
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Provision of transportation accommodations
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Climate surveys
- Policy modification and/or training

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the Parties even if no policy violation is found. When no policy violation is found, the Title IX Coordinator will address any remedies that may be appropriate for the Respondent to ensure no effective denial of educational or employment access. The University will maintain the privacy/confidentiality of any long-term remedies/actions/measures, provided that the University will comply with any disclosure requirements provided by applicable law, such as the Family Educational Rights and Privacy Act (FERPA) applicable to student records, and provided that privacy/confidentiality does not impair the University's ability to provide these services.

8.7. Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with sanctions, responsive actions, and corrective actions within the timeframe specified by the Review Board (including the Appeal Officer) and/or the Title IX Coordinator. Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s) and responsive/corrective action(s), including suspension, dismissal, and/or termination from the University and may be noted on a student's official transcript in accordance with applicable University policies. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

9.0 FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with, or destroying evidence, or deliberately misleading an official investigating, hearing, or informal resolution can be subject to discipline under appropriate University policies.

Student Sanctions

Following is a list of possible sanctions. Sanctions not on this list may be given for violations of the Code of Conduct.

- **Warning/Reprimand:** An official written notice that the behavior is in violation of policy with notification that further violations will result in more serious sanctions.
- **Educational/Creative Project(s):** These sanctions are directly related to the incident or behavior and are designed to help educate the student about the consequences of their actions. These might include video or book review, attending a program, planning a program and/or assisting university staff.
- **Community Service:** Student participation in an activity designed to assist the university

or surrounding community, i.e., volunteer activities at local churches, hospitals, agencies, campus projects or facilities.

- Restitution: Compensation for damage or loss to the University or any person's property.
- Fines: Reasonable fines may be imposed for violation of University policy.
- Confiscation of Prohibited Property: Items whose presence is in violation of University policy will be confiscated and will become the property of the University.
- Loss of Privileges: The student will be denied specified privileges for a designated period of time.
- Visitation Privilege Loss: A student may have their visitation privileges to the residence halls suspended or revoked indefinitely.
- Behavioral Requirement: This includes required activities including, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, etc.
- Probation(s): Supervision of the student's conduct for a designated period of time during which a subsequent infraction of any university regulation or any standard will result in more serious conduct action. Terms of probation are to be decided by the conduct officers and can include but are not limited to: a) inability to represent the university in an official capacity such as student leadership positions, athletics, etc. and b) inability to participate in university activities or designated events. Probationary meetings may also be imposed. The student is deemed "not in good disciplinary standing" for the period of probation.
- No-Trespass Order: The student will not be allowed to enter university buildings or other university property as defined in the sanction.
- Relocation of Housing: The student's room assignment may be changed to an alternate room or building.
- University Housing Suspension: Removal from University housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to University housing may be specified. A student is required to vacate the residence hall at the date and time specified in the Hearing Outcome Letter.
- Dismissal From Residence: The student's privilege to live in, or visit, any University housing structure is revoked for an extended period of time or permanently.

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- Suspension: Separation of the student from the university for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. During the suspension period, the student is banned from university property, facilities and events.
- Termination of Scholarship: Removal/termination of any scholarship provided by Dominican University.
- Dismissal: Permanent separation of the student from the university. The student will not be allowed to re-enroll in the university. The student is banned from university property, facilities and events.
- Other Sanctions: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Dean of Students or designee.

Student Group and Organization Sanctions

The following are the common sanctions that may be imposed upon student organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any University Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: An official sanction for violation of institutional Policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any institutional Policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of University funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student group or organization recognition and/or institutional support for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in Recipient-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the University.
- *Expulsion*: Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges*: Restricted from accessing specific University privileges for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Training or Education*
- *Probation*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*

- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

10.0. FILING AND RECORD KEEPING

In implementing this Policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator in the complaint database for a period not to exceed seven (7) years, or as required by state or federal law or institutional policy.

11.0. PERIODIC REVIEW OF POLICY

This Policy and the procedures contained herein supersede any previous policies addressing Non-Title IX Prohibited Conduct. This Policy and the procedures contained herein will be reviewed and updated annually by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

The Title IX Coordinator may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The Title IX Coordinator may also vary procedures materially with notice (on the University website, with the appropriate effective date identified) upon determining that changes to law or regulation – or alterations due to court decisions - require policy or procedural alterations not reflected in this Policy and these procedures. If government regulations change in a way that impacts this document, this document will be construed to comply with the most recent government regulations.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred.

Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution unless the Parties consent to be bound by the current policy.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

PREGNANCY AND RELATED CONDITIONS, AND PARENTING STUDENTS

Non-Discrimination Statement

does not discriminate in its education program or activity against any applicant for admission, student, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 (Title IX). The University prohibits members of the University community from adopting or implementing any policy, practice, or procedure which treats an applicant for admission, student, applicant for employment, or employee differently on the basis of current, potential, or past parental, family, or marital status.¹⁸ This policy and its pregnancy-related protections apply to all pregnant persons, regardless of gender identity or expression.

Definitions

- **Familial Status.** The configuration of one's family or one's role in a family.
- **Marital Status.** The state of being married or unmarried.
- **Parental Status.** The status of a person who, with respect to another person who is under the age of 18,¹⁹ is a biological, adoptive, foster, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- **Pregnancy and Related Conditions.** The full spectrum of processes and events connected with pregnancy, including pregnancy, childbirth, termination of pregnancy, or lactation; related medical conditions; and recovery therefrom.²⁰
- **Reasonable Modifications.** Individualized modifications to the University's policies, practices, or procedures that does not fundamentally alter the University's education program or activity.

Information Sharing Requirements

Any University employee who becomes aware of a student's pregnancy or related condition is required to provide the student with the Title IX Coordinator's contact information and communicate that the Coordinator can help take specific actions to prevent discrimination and ensure equal access to the University's education program and activity. If the employee has a reasonable belief that the Title IX Coordinator is already aware of the pregnancy or related condition, the employee is not required to provide the student with the Title IX Coordinator's contact information.

Upon notification of a student's pregnancy or related condition, the Title IX Coordinator will contact the student and inform the student of the University's obligations to:

- Prohibit sex discrimination.
- Provide reasonable modifications.
- Allow access, on a voluntary basis, to any separate and comparable portion of the institution's education program or activity.
- Allow a voluntary leave of absence.
- Ensure lactation space availability.
- Maintain a Resolution Process for alleged discrimination.
- Treat pregnancy as comparable to other temporary medical conditions for medical benefit, service, plan, or policy purposes.

The Title IX Coordinator will also notify the student of the process to file a complaint for alleged discrimination, harassment, or retaliation, as applicable.

Reasonable Modifications for Students

Students who are pregnant or are experiencing related conditions are entitled to Reasonable Modifications to prevent sex discrimination and ensure equal access to the University's education program and activity. Any student seeking Reasonable Modifications must contact the Title IX Coordinator to discuss appropriate and available Reasonable Modifications based on their individual needs. Students are encouraged to request Reasonable Modifications as promptly as possible, although retroactive modifications may be available in some circumstances. Reasonable Modifications are voluntary, and a student can accept or decline the offered Reasonable Modifications. Not all Reasonable Modifications are appropriate for all contexts.

Reasonable Modifications may include:

- Breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom
- Intermittent absences to attend medical appointments
- Access to online or homebound education
- Changes in schedule or course sequence
- Time extensions for coursework and rescheduling of tests and examinations
- Allowing a student to sit or stand, or carry or keep water nearby
- Counseling
- Changes in physical space or supplies (for example, access to a larger desk or a footrest)
- Elevator access
- A larger uniform or other required clothing or equipment
- Other changes to policies, practices, or procedures determined by the Title IX Coordinator

In situations such as clinical rotations, performances, labs, and group work, the institution will work with the student to devise an alternative path to completion, if possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave. Students are encouraged to work with their faculty members and the Recipient's support systems to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible. The Title IX Coordinator will assist with plan development and implementation as needed.

Supporting documentation for Reasonable Modifications will only be required when it is necessary and reasonable under the circumstances to determine which Reasonable Modifications to offer to determine other specific actions to take to ensure equal access.

Information about pregnant students' requests for modifications will be shared with faculty and staff only to the extent necessary to provide the Reasonable Modification.

Students experiencing pregnancy-related conditions that manifest as a temporary disability under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act are eligible for reasonable accommodations just like any other student with a temporary disability. The Title IX Coordinator (Kstaros@dom.edu) will consult with The ADA Team (ada@dom.edu) to ensure the student receives reasonable accommodations for their disability as required by law.

Certification to Participate

All students should be informed of health and safety risks related to participation in academic and co-curricular activities, regardless of pregnancy status. A student may not be required to provide health care provider or other certification that the student is physically able to participate in the program or activity, unless:

- 1) The certified level of physical ability or health is necessary for participation;
- 2) The institution requires such certification of all students participating; and
- 3) The information obtained is not used as a basis for pregnancy-related discrimination.

Lactation Space Access²¹

The University provides students and employees with access to lactation spaces that are functional, appropriate, and safe. Such spaces are regularly cleaned, shielded from view, and free from the intrusion of others.

Lactation space is located in the following location:

The Lactation Room (located in Mazzuchelli 253)

Main Campus Map: <https://www.dom.edu/sites/default/files/2023-08/CampusMap2023Final.pdf>

Contact Title IX Coordinator, Karolina Staros Kstaros@dom.edu for questions about accessing lactation room

Leaves of Absence

Students

Students are permitted to take a voluntary leave of absence for a reasonable time as deemed medically necessary by their health care provider because of pregnancy and/or the birth, adoption, or placement of a child. The leave term may be extended in the case of extenuating circumstances or medical necessity. [Students who elect to take leave under this policy may register under an “on leave/inactive” status to continue their eligibility for certain benefits.] While registered under that status, students who choose to take a leave of absence under this policy can elect to keep their health insurance coverage and continue residing in Recipient housing, subject to the payment of applicable fees.

To the extent possible, The University will take reasonable steps to ensure that students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same or an equivalent course catalog that was in place when the leave began.

Continuation of students’ scholarship, fellowship, or similar University-sponsored funding during the leave term will depend on the students’ registration status and the policies of the funding program regarding registration status. Students will not be negatively impacted by or forfeit their future eligibility for their scholarship, fellowship, or similar University-supported funding by exercising their rights under this policy.

The Office of Justice, Equity, and Inclusion can and will advocate for students with respect to financial aid agencies and external scholarship providers in the event that a leave of absence places eligibility into question.

In order to initiate a leave of absence, the student must contact the Title IX Coordinator (Kstaros@dom.edu) at least 30 calendar days prior to the initiation of leave, or as soon as practicable. The Coordinator will assist the student in completing any necessary paperwork.

Employees

Information on employment leave can be found here.
<https://www.dom.edu/offices/hr/resources>

If an employee, including a student-employee, is not eligible for leave under the aforementioned leave policy because they either (1) do not have enough leave time available under that policy, or (2) have not been employed long enough to qualify for leave under that policy, they are eligible to qualify for pregnancy or related condition leave under Title IX. Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time.

Employees who take leave under Title IX must be reinstated to the status held when leave began or a comparable position without a negative effect on any employment privilege or right.

University Housing

A pregnant student's University housing status will not be altered based on pregnancy status unless requested by the student. Parenting students' access to housing is governed by

ADA Team

Accommodations and Disability Access

ada@dom.edu

Requesting Housing Accommodations: <https://www.dom.edu/academics/academic-success-center/ada/student-resources/housing-accommodations>

Policy Dissemination and Training

A copy of this policy will be made available to faculty and employees in annually required training and posted on the University's website. The University will educate all new students about this policy and the location of this policy as part of orientation. The Office of Justice, Equity, and Inclusion will make educational materials available to all members of the University community to promote compliance with this policy and familiarity with its procedures.

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BASED ON THE ATIXA PREGNANCY AND RELATED CONDITIONS MODEL POLICY.

APPENDIX A: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to University officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by the University regarding the allegation(s) or underlying incident(s), whenever possible.

- The right not to have any personally identifiable information released by the University to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by University officials.
- The right to have University policy and these procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by University officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the University in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by University law enforcement and/or other University officials.
- The right to be informed of available supportive measures on campus and in the community.
- The right to a University-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to have the University maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the University's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any University meeting or interview involving another party, when possible.
- The right to identify and have the Investigator(s), Advisors, and/or Decision-maker(s) question relevant available witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker(s), may be asked of any party or witness.

- The right to have inadmissible sexual predisposition/prior sexual history or irrelevant character evidence excluded by the Decision-maker(s).
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of all relevant and directly related evidence obtained during the investigation, subject to privacy limitations imposed by state and federal law, and a ten (10)-business-day period to review and comment on the evidence.
- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to the hearing.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to preservation of confidentiality/privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding and written determination after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any hearing.

- The right to be promptly informed of the finding(s) and sanction(s) (if any) of the Resolution Process and a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written determination letter delivered simultaneously (without undue delay) to the parties.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the Resolution Process, and the procedures for doing so in accordance with the standards for appeal established by the University.
- The right to a fundamentally fair resolution as defined in these procedures.

APPENDIX B: UNETHICAL RELATIONSHIPS POLICY

EXPECTATIONS REGARDING UNETHICAL RELATIONSHIPS²²

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty member and student or supervisor and employee). In reality, these relationships may be less consensual than perceived by the individual whose position confers power or authority. Similarly, the relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Circumstances may change, and conduct that was once welcome may, at some point in the relationship, become unwelcome.

Even when both parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant Policy violation still exists. The University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the University. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are generally discouraged. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must bring these relationships to the timely attention of their supervisor and/or the Title IX Coordinator. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an affected relationship existed prior to adoption of this Policy, the duty to notify the appropriate supervisor still pertains.

This type of relationship includes Resident Assistants (RAs) and students over whom the RA has direct responsibility. While no relationships are specifically prohibited by this Policy, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee. The Title IX Coordinator will determine whether to refer violations of this provision to Human Resources for resolution, or to pursue resolution under this Policy, based on the circumstances of the allegation.

²² Violation of the Unethical Relationships Policy is a Human Resources/Employee Relations matter and should not be addressed under this Resolution Process unless the elements of the definition of harassment are met.