

## TITLE IX POLICIES AND PROCEDURES

### 1.1 Nondiscrimination and Title IX Statement

Title IX of the Educational Amendments of 1972 (“Title IX”) prohibits sexual discrimination in educational programs receiving federal funds. At Methodist University, some of those programs and activities include: admissions, recruitment, financial aid, academic programs, athletics, housing, and employment. Title IX also protects students, faculty, and staff from unlawful sexual harassment in school programs or activities. Title IX protects both male and female students, faculty, and staff from sexual harassment, regardless of who is the harasser.

Methodist University does not discriminate on the basis of sex and is prohibited from doing so by Title IX.

Questions regarding nondiscrimination policies at Methodist or the application thereof may be addressed to:

Matthew K. Dempster  
Director of Institutional Compliance and Title IX  
Horner Administration Building  
5400 Ramsey Street  
Fayetteville, NC 28311  
Telephone: 910.630.7558  
Fax: 910.630.7306  
[mdempster@methodist.edu](mailto:mdempster@methodist.edu)

The Department of Education’s Office of Civil Rights (OCR) ensures institutions receiving federal funding comply with Title IX regulations. Additional inquiries regarding Methodist University’s application of Title IX may be referred to:

The Office of Civil Rights  
District of Columbia Office  
U.S. Department of Education  
400 Maryland Ave SW  
Washington, DC 20202-1475  
Telephone: 202.453.6020  
Fax: 202.453.6021  
[OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

Methodist University does not discriminate on the basis of age, race, gender, national or ethnic origin, religion, sexual orientation or disabilities in its programs and activities.

The procedures of this policy apply to complaints made against a Methodist University student, faculty, or staff member for engaging in some form of sexual harassment, as defined herein and the applicable federal regulations. As further defined herein and the applicable federal regulations, the person filing a formal complaint of sexual harassment is known as the “complainant.” The person whose conduct is complained about is known as the “respondent.”

Cases will be concluded within a reasonable period of time as provided for by the applicable federal regulations. Timelines apply equally to both the complainant and the respondent. Both parties will be given regular updates in writing until the process is complete.

Nothing herein shall operate to create an expectation of continued employment or enrollment with Methodist University. In most cases, employment with Methodist University is at-will, and employees may be terminated for any lawful reason or for no reason.

## **1.2 Title IX Responsibilities**

### ***1.2.1 Title IX Coordinator***

The Title IX Coordinator plays an essential role in helping to ensure that every person affected by the operations of Methodist University is aware of the legal rights Title IX affords and that Methodist University and its officials comply with their legal obligations under Title IX and applicable regulations.

The Title IX Coordinator's responsibilities include, but are not limited to:

- Ensuring thorough training is completed by the Deputy Title IX Coordinators, the Title IX Investigators, the Title IX Decision-makers, and the Title IX Mediators in the handling of Title IX notices and formal complaints.
- Ensuring training and technical assistance on University policies related to sex discrimination is available to all University members as well as other parties as required by applicable federal regulations.
- Developing programs and informational guides on issues related to Title IX to make sure that all members of the school community, including students, faculty, and staff, are aware of their rights and obligations under Title IX
- Overseeing all Title IX related matters
- Coordinating responses to Title IX notices and formal complaints, including, without limitation, the effective implementation of supportive measures
- Coordinating efforts for the investigation, resolution, and implementation of corrective measures
- Reviewing and analyzing information from annual climate surveys
- Updating and revising the Title IX Policy and Procedures as necessary [to this end, the University reserves the right to amend or modify these policies and procedures at any time]
- Monitoring of the educational and working environment to stop, remediate, and prevent discrimination based on sex.
- Identifying and addressing any patterns or systemic problems that arise during the review of notices and formal complaints.
- The Title IX Coordinator also serves as chair of the Title IX committee which consists of the Coordinator and multiple Deputy Coordinators and any others who may need to be added from time to time by the University, as it deems necessary in its sole and absolute discretion.
- Signing a formal complaint in certain circumstances.

Any Title IX notices/complaints or inquiries regarding the University's non-discrimination policies should be immediately directed to the Title IX Coordinator:

Matthew Dempster  
Director of Institutional Compliance and Title IX  
Horner Administration Building  
5400 Ramsey Street  
Fayetteville, NC 28311  
Telephone: 910.630.7558  
Fax: 910.630.7306  
[mdempster@methodist.edu](mailto:mdempster@methodist.edu)

Should the Title IX Coordinator or any Deputy Title IX Coordinator be named as the respondent, the functions of the Title IX Coordinator/Deputy Title IX Coordinator will transfer to another available Coordinator. At no point will the Title IX Coordinator or any Deputy Title IX Coordinator be involved in the coordination of a response to a notification and/or formal complaint against him or her except for his or her role as a respondent to a formal complaint. Likewise, no other Title IX official will participate in their official capacity in any Title IX matter if there is a conflict of interest. The University reserves the right to resolve all conflicts of interest, perceived or otherwise. All Title IX officials must make any conflict known to the Title IX Coordinator/Deputy Title IX Coordinator.

### ***1.2.2 Deputy Title IX Coordinators***

Deputy Title IX Coordinators have the responsibility of assisting the Title IX Coordinator in coordinating the University's general response to Title IX notifications and formal complaints as directed by the Title IX Coordinator. Deputy Title IX Coordinators must receive thorough training in the handling of Title IX Complaints and other matters as provided by current regulations relating to Title IX. In addition, the Deputy Title IX Coordinators serve on the Title IX Committee.

The Title IX Coordinator is responsible for assigning cases to the Deputy Title IX Coordinator(s). If a potential conflict exists in performing the necessary duties, the Deputy Title IX Coordinator(s) must make the Title IX Coordinator aware of the conflict prior to participating in the Title IX matter. At any point, the Title IX Coordinator may reassign matters to alternate Deputy Coordinators if necessary for cause.

Deputy Coordinators will include, at a minimum:

- The Human Resources Assistant Director
- A delegate of the Dean of Students
- A representative from the Athletics Department
- A representative from the Faculty

### ***1.2.3 Title IX Investigators***

Title IX Investigators have the responsibility of investigating formal complaints of sexual harassment and completing an investigative report regarding such formal complaints in accordance with these procedures and the applicable regulations. If a potential conflict exists in performing the investigation, the assigned Title IX Investigator must make the Title IX Coordinator aware of the conflict prior to investigating the formal complaint or, if later in time, as soon as the Title IX Investigator becomes aware of any potential conflict. At any point in the investigation, the Title IX Coordinator may reassign investigations to alternate Title Investigators if necessary for cause. The complainant and respondent and their advisors, if applicable, will be notified of the Title IX Investigator and their contact information prior to the investigation

proceeding and updated if any of that information changes in the course of the investigation. All parties are urged to cooperate with the assigned Title IX Investigator so that he/she may timely complete a thorough investigation and the resulting investigative report.

#### ***1.2.4 Title IX Decision-makers***

Title IX Decision-makers have the responsibility of adjudicating formal complaints of sexual harassment in accordance with these procedures and the applicable regulations. If a potential conflict exists in performing the adjudication, the same should be reported before adjudicating the particular matter. The University reserves the right to resolve any conflicts by re-assignment or otherwise. In matters where both the respondent and the complainant are students at the University, the initial Title IX Decision-maker shall be the Administrative Hearing Board. In matters where the respondent is an employee of the University, the initial Title IX Decision-maker shall be the Conflict Management Team. The appellate Title IX Decision-maker shall be the University's Appeal Board. Title IX Decision-makers may have access to counsel and legal representation.

#### ***1.2.5 Title IX Mediators***

Title IX Mediators have the responsibility for assisting in the informal resolution of eligible Title IX matters, as further provided in the applicable federal regulations. As with other Title IX officials, all conflicts should be reported as soon as the official is aware of the same, and the University reserves the right to resolve any conflicts by re-assignment or otherwise.

### **1.3 Sexual Harassment and Discrimination**

Sexual harassment is a form of sex discrimination which is prohibited by Title VII of the Civil Rights Act of 1964, by Title IX of the Education Amendments of 1972, and in the Methodist University Equal Opportunity Policy.

Sexual harassment is an abuse of persons: it is a violation of the principle that all members of the Methodist community should be treated fairly and equally, with dignity and respect. Sexual harassment is thus a violation of the freedom of others: it cannot and will not be tolerated at Methodist University. It is the responsibility of all members of the Methodist University community to work toward understanding, preventing, and combating sexual harassment. The purpose of the University's policy regarding sexual harassment is to help the entire community fulfill this obligation. Any person found to have violated this policy will be subject to disciplinary measures.

In addition to its policy regarding sexual harassment, Methodist University provides contacts and resources trained to deal with this issue. The Title IX Coordinator is available to assist with contacting any of these resources and making appointments if desired.

Methodist University  
Health and Counseling Services at "The Well"  
910.630.7150  
Monday-Friday; 8:00 am- 5:00 pm

Campus Police and Public Safety  
910.630.7577

Cape Fear Valley Employee Assistance Program  
910.829.1733

CONTACT Crisis Hotline of Fayetteville  
910.483.4134

Rape Crisis Volunteers of Cumberland County  
910.485.7273

Fort Liberty Victim Advocacy Hotline  
910.322.3418

Fayetteville VA Medical Center / Sexual Trauma Counseling:  
910.488.2120, ext. 5482

Pope Field Victim Advocacy Hotline  
910.394.7272

Safe-Link Domestic Violence Assistance Program  
910.475.3029

NC Victim Compensation Services  
800.826.6200

Domestic Violence Women's Shelter:  
910.677.2532

Fayetteville Police Department  
910.433.1529

Cumberland County Sheriff Department  
910.323.1500

#### **1.4 Definitions**

Methodist University has a legal obligation to ensure a working and learning environment that is reasonably free from discrimination or harassment. Methodist University has procedures to receive, investigate, respond to and resolve complaints of discrimination, including harassment based on sex. Title IX violations include discrimination on the basis of sex or gender and include sexual harassment, sexual exploitation, nonconsensual sexual acts, sexual violence, and sexual misconduct.

*Actual Notice: Actual knowledge* means notice of sexual harassment or allegations of sexual harassment to the University's Title IX Coordinator/Deputy Title IX Coordinator. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the University with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment,

or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University.

Complainant: *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Dating violence: Violence, sexual abuse, physical abuse, or threats of or attempts at such abuse between partners who are or have been in a personal, romantic, or intimate relationship.

Domestic violence: Attempting to cause bodily injury; intentionally causing bodily injury; or inflicting substantial emotional distress by causing fear of imminent serious bodily injury or harassment by someone with whom the aggrieved party has or has had a personal relationship. A personal relationship means one between current or former spouses, persons who live or have lived together, persons who have a child in common, or persons who are or have been in a dating relationship.

Formal Complaint: *Formal complaint* means a document filed by a complainant or signed by the Title IX Coordinator or Deputy Title IX Coordinator alleging sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator/Deputy Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information provided by the University and by any additional method designated by the University. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator/Deputy Title IX Coordinator signs a formal complaint, the Title IX Coordinator/Deputy Title IX Coordinator is not a complainant or otherwise a party and must comply with the requirements of this Policy AND all applicable regulations.

Gender Discrimination or Gender Harassment: Prohibited sex discrimination includes discrimination based on the person’s gender, but which is not sexual in nature. Methodist University’s policies prohibit gender-based harassment, which means unwelcome conduct based on an individual’s actual or perceived sex, including discrimination or harassment on the basis of sexual orientation, gender expression, or nonconformity with sex stereotyping.

Notice: A report of sexual harassment to the Title IX Coordinator/Deputy Title IX Coordinator that provides actual notice but that does not meet the standard of formal complaint, as defined herein. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator/Deputy Title IX Coordinator, or by any other means that results in the Title IX Coordinator/Deputy Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator/Deputy Title IX Coordinator.

Respondent: *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation: Retaliation is taking action against someone for that person's participation in a protected activity. Protected activity under this policy includes (i) a good faith reporting of a complaint under the policy, (ii) participation in an investigation or hearing under the policy, and (iii) opposition to practices that an individual reasonably believes are in violation of this policy.

Sex Discrimination: Conduct that denies or limits a person's ability to benefit from or fully participate in educational programs or activities or employment opportunities because of a person's sex. Examples of the types of discrimination that are covered under Title IX include, but are not limited to, sexual harassment, sexual misconduct, sexual violence, failure to provide equal opportunity in educational programs and co-curricular programs including athletics, discrimination based on pregnancy, and employment discrimination. While this Policy does not apply to conduct that does not meet the regulatory definition of Sexual Harassment, Sex Discrimination in all forms is prohibited and may be addressed via other University conduct/grievance policies.

Sexual coercion or intimidation: Words or actions used to pressure, manipulate, isolate, trick or intimidate a person into engaging in unwanted sexual activity.

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

(1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.

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

(3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30) [see relevant definitions herein].

The conduct meeting these requirements must occur against a person in the United States, as more particularly set forth in the regulations.

Sexual Misconduct: Sexual misconduct is any attempted or actual sexual contact directed against another person in the direct absence of effective, mutually understandable consent. Prohibited sexual misconduct includes:

- Indecent Exposure: Deliberate exposure of one's intimate body parts; the display of sexual behavior in a public or open setting.
- Non-Consensual Sexual Contact: Any attempted or actual sexual touching directed against another person in the direct absence of effective, mutually understandable consent. Examples of sexual contact include but are not limited to the intentional touching, groping, or fondling of a person's breasts, buttocks, groin, genitals, or mouth or the clothing covering any of those areas, or using force to cause the person to touch, grope, or fondle his/her own breasts, buttocks, groin, genitals, or mouth or clothing covering any of those areas.

- Non-Consensual Sexual Intercourse: Any sexual penetration (anal, oral, or vaginal), however slight, with any body part or object by any person upon any other person without consent.

Sexual Exploitation: Taking sexual advantage of another person without effective consent. Examples include but are not limited to causing incapacitation of another person for a sexual purpose; causing the prostitution of another person; recording, photographing, or transmitting intimate or sexual utterances, sounds, or images of another person; allowing third parties to observe sexual activity; engaging in voyeurism, trespassing, spying, or eavesdropping for sexual arousal; distributing intimate or sexual information/images of another person; and/or knowingly exposing another person to a sexually transmitted infection.

Sexual violence: A form of sexual harassment and refers to physical sexual acts perpetrated against a person's will or when the person is incapable of giving consent because of a disability, drug or alcohol use, or other reason. Examples of sexual violence include rape, "date rape," sexual assault, and forcefully coercing someone to have sex or perform a sexual act.

Stalking: Any course of conduct directed against another person that violates reasonable expectations of personal privacy and that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating, or abusive environment to a reasonable person. This includes actions or contact through a third party. Examples include but are not limited to: repeatedly contacting or following a person; use of electronic devices or software to obtain or attempt to obtain private data; entering or opening a student's private property without express consent; use of another person's password or ID to attempt to gain access to personal information.

Supportive Measures: *Supportive measures* mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The University must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The Title IX Coordinator/Deputy Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

## **1.5 Privacy and Confidentiality**

Complainants should not assume that reports of sex discrimination, including sexual violence, will be kept confidential. Formal complaints of sexual harassment must, in most circumstances, be investigated in accordance with these procedures. The respondent will have mandatory notice of the allegations and an opportunity to participate in the investigation and adjudication phases.

## **1.6 Title IX Procedures**



### **1.6.1 Receipt of Notification of Alleged Sexual Harassment.**

Notices/notifications of sexual harassment will be directed to the University's Title IX Coordinator or Deputy Title IX Coordinators, who will immediately notify the Title IX Coordinator of the notice or notices. As required by applicable federal regulations, upon receipt of actual knowledge, as defined by these same regulations, of sexual harassment in a program or activity of the University's against a person in the United States, the University must respond in a manner that is not deliberately indifferent. The University's response must treat complainants and respondents equitably and without bias as required and further defined by the applicable federal regulations. Upon receipt of any such notice, the Title IX Coordinator/Deputy Title IX Coordinator must promptly contact the complainant to discuss the availability and appropriateness of supportive measures, must consider the complainant's wishes with respect to supportive measures, must inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and must explain to the complainant the process for filing a formal complaint and the resulting investigatory and adjudicative procedures.

### **1.6.2 Emergency Removal**

Emergency removal of the respondent may be a valid supportive measure; however, prior to taking such a drastic action, the University must undertake a comprehensive and individualized safety and risk analysis, determine by a preponderance of evidence that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provided the respondent with notice and an opportunity to challenge the decision immediately FOLLOWING the emergency removal. Any appeal of such an emergency removal shall be to the Appeal Board. Any such appeal may be taken after the emergency removal has been affected and up to the time that the initial adjudicative process is complete. If the respondent is absolved of any alleged wrongdoing by this Title IX process, the emergency removal order will immediately dissolve. In the case of an employee respondent, the University reserves the right to place the same on administrative leave during the Title IX process.

### **1.6.3 Formal Complaint Grievance Process**

#### **1.6.3.1 General Provisions:**

The following shall apply throughout the grievance process:

The University shall treat complainants and respondents equitably.

The University shall require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

The University shall require that any individual designated as a Title IX Coordinator/Deputy Title IX Coordinator, Title IX Investigator, Title IX Decision-maker, or Title IX Mediator, not have a conflict of interest or bias for or against complainants or respondents generally or toward an individual complainant or respondent. Accordingly, the University must ensure that these Title IX officials receive training on the definition of sexual harassment, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution

processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Likewise, the University must ensure that the Title IX Decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. The University must also ensure that Title IX Investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Any materials used to train these Title IX officials must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

It is presumed that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

This grievance process shall be completed in a reasonable prompt time frame [usually within sixty days]. The University may grant a temporary delay of the grievance process or grant prior to expiration a limited extension of time as to relevant deadlines for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the actions. Good cause may include, without limitation, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

The University shall apply the preponderance of evidence standard to all Title IX formal complaints. A preponderance of evidence exists when a reasonable person, after evaluating all information available at the time of the hearing, would conclude that it is more likely than not a violation has occurred.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties provided that the University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a grievance process.

The University shall provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

The University shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

The University shall provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the University and its designees may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. Moreover, the University is only required to provide an advisor, as set forth herein, of its choice for either party at an adjudication hearing. The University may not compel either party to participate in the grievance process; however, failure to fully participate may negatively impact the ability of the University to investigate and adjudicate the Title IX matter, may impact what evidence the Title IX Decision-maker can consider and may even lead to dismissal of the formal complaint or certain allegations contained

therein. Finally, and for the avoidance of doubt, the complainant and respondent are each limited to the participation of no more than one (1) advisor per side at the adjudication hearing and the Title IX Decision-maker/chairperson of the Title IX Decision-maker retains broad authority to control the process and procedure of the adjudication hearing and the parties' participation therein. This authority shall include, without limitation, the ability to govern and control the examination and cross-examination of witnesses as well as the general conduct of the participants, including, again without limitation, the complainant, the respondent, and their respective advisors, again with each side being limited to no more than one such advisor in the adjudication hearing.

The University shall provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

The University shall provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. As required by federal regulations, prior to completion of the investigative report to be created as part of the investigation, the University shall send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the Title IX Investigator will consider prior to completion of the investigative report. The University must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

The University, as part of its investigation, shall create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the adjudication hearing, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

Throughout the grievance process, the parties will be offered the option of mediation (if appropriate). Incidents of sexual violence will never be eligible for mediation. Moreover, allegations involving an employee of the University as a respondent are not eligible for mediation. The University may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment. Likewise, the University may not require that parties participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the University may facilitate an informal resolution process, such as mediation, which does not involve a full investigation and adjudication, provided that the University –

(i) Provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

- (ii) Obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

During the grievance process, the parties may request any interim supplemental measures (such as University enforced mutual restrictions on contact between the parties (such as no contact orders), change in class schedules, the ability to retake or withdraw from class without penalty, etc.) The decision to impose interim measures is made by the Title IX Coordinator/Deputy Title IX Coordinator, the Vice President for Planning and Administration (for Staff), the University Provost (for Faculty), the Dean of Students (for Students), or by the University's President. The University will also enforce any court order. The Complainant and Respondent will be notified in writing of any imposed interim measures. Nevertheless, the applicable federal regulations require that innocence is to be presumed and that neither party can be unreasonably burdened prior to the completion of the grievance process. The complainant will be advised of any additional resources available to him or her for counseling, other mental health services, academic assistance, or other support.

For the avoidance of doubt, police investigations are entirely separate from this process. A complainant may make a report of sexual discrimination, including sexual violence, to the campus police or another law enforcement agency, to the Title IX Coordinator, to a Deputy Title IX Coordinator, or all. The fact that a police investigation is ongoing does not relieve the University of its obligation to investigate formal complaints of sexual harassment as provided herein. If campus police receive a report of sexual discrimination, campus police shall promptly notify the Title IX Coordinator.

Retaliation against anyone who brings forward a complaint of sexual discrimination is strictly prohibited. Anyone responsible for retaliation or threats of retaliation, whether that person is the accused party, someone affiliated with the accused (i.e. a friend or family member), or any other party, will be subject to disciplinary action by the University. Retaliation includes (but is not limited to):

- adverse employment actions (such as unjustified termination, suspension, denial of a promotion, or refusal to hire)
- Harassment (such as threats, increased surveillance, altering work conditions so an employee cannot perform the duties of his or her job, unjustified grading, excluding student from class participation, or unjustified write-ups or performance reviews)
- Criminal acts (violence such as assault, vandalism, and theft)
- Post-employment retaliation (such as refusing to provide a reference, interfering with attempts to find other employment, or providing false and negative information in a job reference)

Retaliation should be reported promptly to the Title IX Coordinator or the any Deputy Title IX Coordinator(s), who will report the retaliation to the Title IX Coordinator. Retaliation by a person not affiliated with the University may be addressed by the police.

The University shall maintain for a period of seven years records of (1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript created, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity; (2) Any appeal and the result therefrom; and (3) Any informal resolution and the result therefrom. Additionally, the University must create, and maintain for a period of seven years, records of any actions,

including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the University must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If the University does not provide a complainant with supportive measures, then the University must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the recipient in the future from providing additional explanations or detailing additional measures taken.

#### *1.6.3.2 Receiving a Formal Complaint*

Signed formal complaints of sexual harassment will be filed, in the manner indicated in the definition herein, to the University's Title IX Coordinator or Deputy Title IX Coordinators, who will immediately notify the Title IX Coordinator of the formal complaint. Allegations of sexual violence will be forwarded to campus police. If the formal complaint is also a first notice of alleged sexual harassment, the Title IX Coordinator/Deputy Title IX Coordinator shall comply with all notification procedures. For the avoidance of doubt, all formal complaints can also be a first notice of alleged sexual harassment; however, not all notices can be formal complaints. The particular regulatory requirements for a formal complaint must also be met.

Upon receipt of a validly filed formal complaint, the Title IX Coordinator/Deputy Title IX Coordinator must review the same and determine if the allegations do not meet the definition of sexual harassment or did not occur in the University's education program or activity against a person in the United States. If the allegations, while resolving all ambiguities in favor of the complainant, even if proved do not state a claim under this policy as further informed by the applicable regulations, then the University must dismiss the same and give notice and appeal rights as set forth herein. Nevertheless, such a dismissal shall only be regarding procedures under this Title IX policy, and the formal complaint may be referred to the appropriate University official to be investigated and acted upon as an employee and/or student conduct matter. Additionally, the University must dismiss any formal complaint if the grievance investigation process uncovers that there is no claim under these Title IX policies and procedures. Additionally, the University may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator/Deputy Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the University; or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. If a formal complaint or allegations within the same are so dismissed, the University will give prompt written notice of the dismissal and all relevant reasons simultaneously to all parties with instructions for appealing the same to the Appeal Board, as otherwise provided herein.

Without limitation, the University may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Upon receipt, the Title IX Coordinator or Deputy Title IX Coordinator(s) will initiate the required investigation and assign the Title IX Investigator(s) and/or the Title IX Mediator(s) for any pending matters.

Additionally, upon receipt of a formal complaint that is not initially dismissed for failure to state a claim, in part or whole, of sexual harassment under this policy, the Title IX Coordinator/Deputy Title IX Coordinator shall issue a written notice of allegations to all known parties. The notice of allegations must give notice of this grievance process, along with any informal resolution or mediation process. Additionally, this notice of allegations must give notice of allegations of sexual harassment potentially constituting sexual harassment as defined herein and the applicable federal regulations, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence collected as part of the grievance process. The written notice must inform the parties of any provision in the University's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process. Moreover, if, in the course of an investigation, the University decides to investigate allegations about the complainant or respondent that are not included in the initial or a subsequent notice allegations, the University must provide written notice of the additional allegations to the parties whose identities are known in the manner specified above.

The complainant and the respondent, and their advisors if any, shall be informed of who will be performing the investigation into the complaint. Evidence of past consensual sexual relationships or previous Title IX complaints by the Complainant will not be considered when making a determination regarding a current complaint.

The assigned Title IX Investigator(s) shall fully investigate the facts alleged in the formal complaint with the support of the University. This investigative process shall include, at a minimum:

- an interview with the complainant
- an interview with the respondent
- an interview with any witnesses to the accused conduct
- examination of all documentary evidence relevant to the matter being investigated.

The Title IX Investigator will collect and preserve evidence pertaining to the allegations set forth in the initiating formal complaint. Party and/or witness interviews may be recorded. If not, the Title IX investigator shall take and preserve notes of the interviews. As part of this investigation, the Title IX Investigator shall create a preliminary and final investigative report and shall provide access and opportunity for review and response to all parties and their advisors, if any, as provided above.

If an investigation and adjudication is going to take longer than 1 month, the complainant and respondent will be notified in writing of an approximate completion date. If the completion date cannot be met due to the significant size or complexity of the investigation, the complainant and respondent will be notified in writing of any updated completion timeline.

Upon completion of his or her investigation, the assigned Title IX Investigator(s) shall finalize the investigative report and transmit it to the Title IX Coordinator/Deputy Title IX Coordinator and the relevant Title IX Decision-maker in preparation for the adjudicative hearing.

The Title IX Decision-maker shall schedule the hearing and provide the required notice of the same to all known parties. As required by applicable federal regulations, this hearing must be live and “in real time.” At the live hearing, the relevant Title IX Decision-maker must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor of choice and never by a party personally, notwithstanding the discretion of the Title IX Decision-maker to otherwise restrict the extent to which advisors may participate in the proceedings. At the request of either party, the recipient must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the relevant Title IX Decision-maker and parties to simultaneously see and hear the party or the witness answering questions. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the relevant Title IX Decision-maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, the University will provide without fee or charge to that party, an advisor of the University choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent. If a party or witness does not submit to cross-examination at the live hearing, the relevant Title IX Decision-maker **must not** rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the relevant Title IX Decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at the University’s discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. Recipients must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. Finally, and without limitation, the relevant Title IX Decision-maker has broad authority to conduct and control the live adjudicative hearing. To that end, and again without limitation, the same may rule on evidence, control the conduct of participants, exclude unruly participant and exercise a broad reservoir of equitable, jurisdictional and procedural powers and authority to conduct the hearing and render a determination.

Within five days of completion of the adjudicative hearing, the relevant Title IX Decision-maker shall issue a written determination regarding responsibility applying the preponderance of evidence standard. The written determination must include the following:

- Identification of the allegations potentially constituting sexual harassment
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the University’s applicable code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes [subject to additional requirements] on the respondent, and whether remedies designed to restore or preserve equal

access to the University's education program or activity will be provided by the University to the complainant; and

- The University's procedures and permissible bases for the complainant and respondent to appeal.

The University must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. The Title IX Coordinator is responsible for effective implementation of any remedies.

## **1.7 Sanctions**

If the appropriate authority determines that the respondent committed a Title IX violation as defined herein, he, she or they shall order an appropriate sanction, and shall consider a range of sanctions, which may include (but it not limited to) any of the following and depends on the nature and severity of the incident:

- No punishment
- Termination (complying with applicable rules for terminating a faculty member . . . to that end, an adjudication of responsibility as to a faculty member shall be deemed an event of moral turpitude and criminal or disreputable conduct entitling the University to revoke the tenure and immediately terminate same and/or immediately terminate the same in the case of a non-tenured faculty member) or expulsion
- Additional required training
- Loss of supervisory/management duties
- Expulsion
- Suspension
- Transfer of the respondent to another residence hall
- Transfer of the respondent out of classes shared with the complainant
- Verbal or written warnings
- Other appropriate sanctions as deemed necessary for the University to comply with all local, state, and federal laws and regulations and fulfill the University's obligation to ensure a working and learning environment that is reasonably free from discrimination or harassment.

If sanctions are imposed based on published university guidelines, additional measures beyond those published guidelines may also be imposed on the Respondent and/or granted to the Complainant to meet the University's Title IX obligations.

## **1.8 Appeals**

All parties have a right to appeal from a determination regarding responsibility, and from a recipient's dismissal of a formal complaint or any allegations therein, on the following bases:

- (i) Procedural irregularity that affected the outcome of the matter;
- (ii) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and



(iii) The involved Title IX Coordinator/Deputy Title IX Coordinator, Title IX Investigator(s), or title IX Decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

All appeals shall be presented to the University Appeal Board, which shall serve as the appellate Title IX Decision-maker under these procedures. A complainant or respondent who wishes to appeal the written determination must notify the assigned Title IX Coordinator/Deputy Title IX Coordinator in writing within five days of the rendering of the written determination. The written appeal must identify the specific basis for the appeal and any information the appealing party would like reviewed and/or considered. The other party will be given a copy of the written appeal and given five days to provide a written response. Parties may cross-appeal and cross respond so long as the deadlines are complied with. Thereafter, the Appeal Board will meet, consider the appeal(s) and promptly render a written decision describing the result of the appeal and the rationale for the same. It is contemplated that the Appeal Board will, in the absence of extenuating circumstances, meet within ten days of receiving any written response to an appeal/expiration of the time to submit a written response and render a final decision within five days of meeting to consider the same. The written decision of the Appeal Board will be provided to the parties simultaneously and will be final; however, as the initial determination, certain sanctions, such as suspensions and exculpations/terminations are subject to compliance with relevant University procedures and subject to administration approval.

### **1.9 Regulations and Other University Policies**

It is the intent of the University that these policies and procedures fully comply with all relevant federal regulations regarding the same. These policies and procedures are promulgated in accordance with the same. Accordingly, and for the complete avoidance of doubt, these policies and procedures are subject to the applicable federal regulations, and, in the event of any conflict between them, the applicable federal regulations shall control. Moreover, any discrepancy between the two shall be immediately and without need for notice resolved by implied modification or amendment to these policies and procedures to be compliant.

While certain undesirable or injurious conduct may not fall within the scope or purview of these Title IX policies and procedures, they may still violate various University codes of conduct, for students and/or employees. Accordingly, the Title IX Coordinator/Deputy Title IX Coordinator(s) are fully empowered to give notice of any conduct violations and/or grievances and initiate University proceedings regarding the same.