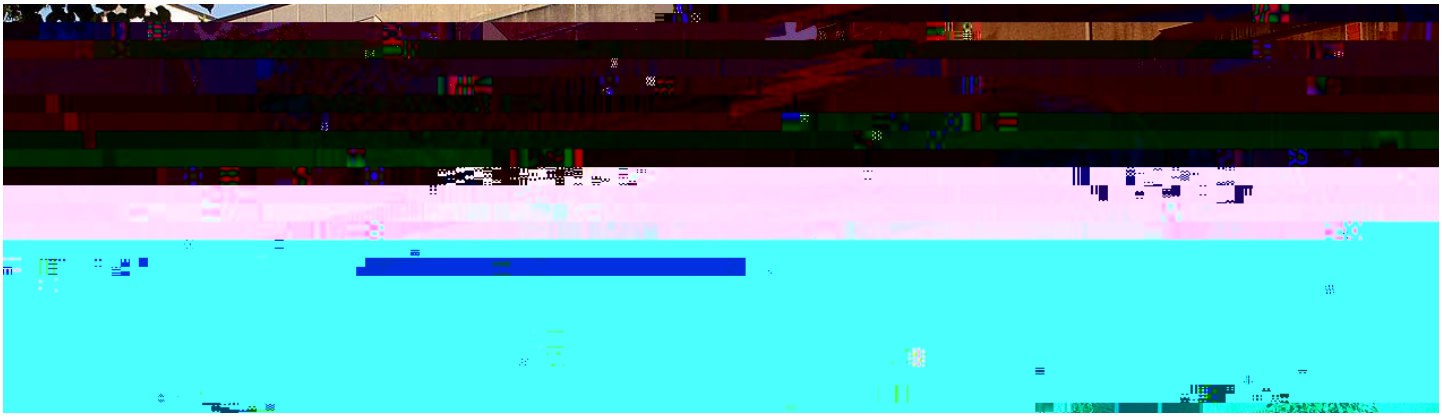
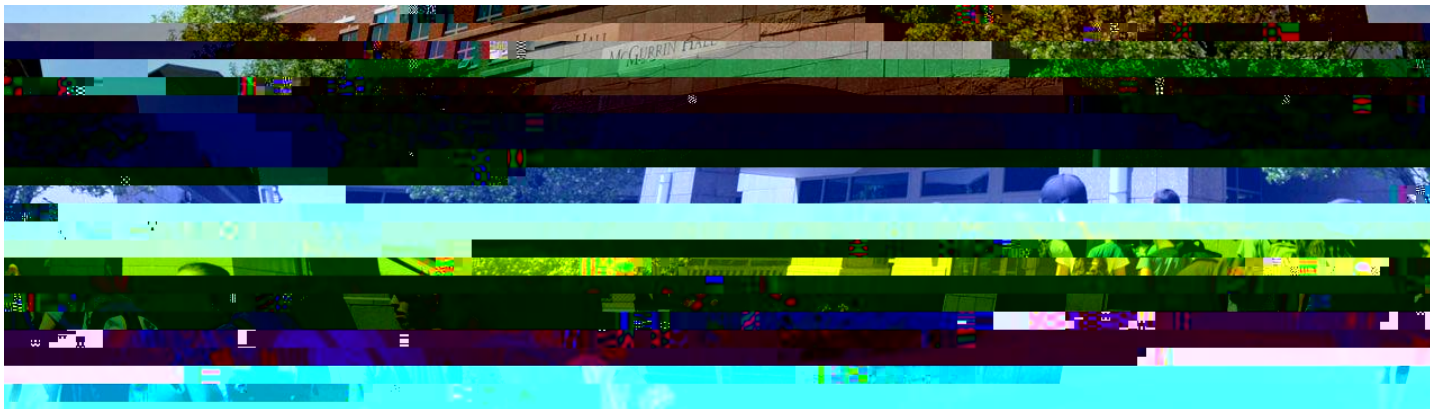


October 1, 2022



1. QUID PRO QUO SEXUAL HARASSMENT ..... 16 TJGP 0 612 7
2. TITLE IX SEXUAL HARASSMENT 16
3. TITLE IX SEXUAL ASSAULT 16
4. TITLE IX SEXUAL EXPLOITATION 16
5. TITLE IX DATING VIOLENCE 17
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B. REASONS FOR UPDATED POLICY

In May 2020, the Department of Education released regulations mandating that institutions of higher education implement certain requirements by August 14, 2020. The Third Circuit Court of Appeals also established precedent for private universities and colleges in Doe v. University of the Sciences. The requirements include, but are not limited to: live hearings, cross examinations, written complaints, and other procedural obligations. Reports received alleging possible violation of this policy must comply with these legal obligations. While the University must comply with these regulations, the University also attempts, wherever possible, to conduct such processes in accordance with our Jesuit and Catholic identity, and to provide all members of our community access to support and services.

This policy applies to conduct that takes place while on University property, at University-sponsored events and activities, and off-campus programs, including but not limited to, study abroad programs, internships, student teaching, athletic events, and business travel. This policy also applies to off-campus conduct that violates the policy and has the effect of LQWHUIHULQJ ZLWK RU OLPLWLQJ RQH¶V DELOLW\ WR SDUWLFLSDWH LQ RU EHQHILW IURP DQ\ XQLYHUVLW\ educational program or activity. So PH FRQGXFW PD\ IDOO XQGHU 37LWOH

This is a BETA version of the Model Policy. Please contact Title IX Coordinator with any questions.

- Comply with legal precedent, Doe v. University of the Sciences, No. 19-2966 (May 29, 2020).

- Define sexual harassment and the forms of sexual misconduct that violate the standards of our community.

- Identify resources and support for all members of the University community (students and employees).

- Identify the Title IX Coordinator and the scope of the role.

- Provide information as to where a student or employee can obtain supportive measures or access resources in a confidential manner.

- Provide information as to how a student or employee can make a report with the University and/or with the police, or file a complaint with the Title IX Coordinator.

- Provide information as to how a report against a student or an employee will be investigated, evaluated, and adjudicated.

D. ENTITIES AFFECTED BY THIS POLICY

Institute of Molecular Biology and Medicine, Suite 315
Phone: (570) 941-6645 E-mail: elizabeth.garcia2@scranton.edu
Website: www.scranton.edu/diversity

7 K H 7 L W O H , ; & R R U G L Q D W R U R Y H U V H H V W K H 8QL Y H U V L W \ ¶

community, applicants for employment or admissions, guests and visitors have the right to be free from harassment or discrimination based on race, color, national origin, ancestry, gender, sex, pregnancy, disability, religion, age, veteran status, gender identity or expression, sexual orientation, genetic information, or any status protected by applicable law

PAHRA

University (e.g. a Resident Assistant, faculty member, or coach). Reports are shared with the Title IX Coordinator for consistent application of the Sexual Harassment and Sexual Misconduct Policy to all individuals and to allow the University to respond promptly and equitably to eliminate the prohibited conduct, prevent its recurrence and remedy its effects.

E.

2. Whether the conduct was physically threatening;
3. 7 K H H I I H F W R I W K H F R Q G X F W R Q W K H 8 S S O D L Q D Q
4. Whether the conduct was directed at more than one person;
5. Whether the conduct arose in the context of other discriminatory conduct;
6. : K H W K H U W K H F R Q G X F W X Q U H D V R Q D E O \ L Q W H U I H educational or work performance and/or University programs or activities; and
7. Whether the conduct implicates concerns related to academic freedom.

Sexual and gender -based harassment can take many forms :

- It can occur between equals (e.g., student-to-student, staff-to-staff, faculty member to faculty member, visitor/contractor to staff) or between persons of unequal power status (e.g., supervisor to subordinate, faculty member to student, coach to student-athlete).
- It can be committed by or against an individual, an organization or group.
- It can

cease any sexual contact or activity. Being intoxicated or impaired by drugs or alcohol does Q R W G L P L Q L V K D Q L Q G L Y L G X D O ¶ V U H V S R Q V L E L O L W \ W R R E W

VII. OVERVIEW OF OPTIONS

The University is committed to providing all members of the University community with a safe place to live, learn and work. Consistent with this priority, the University will respond promptly and equitably to all allegations of sexual harassment and sexual misconduct. Any individual may make a report under the Sexual Harassment and Sexual Misconduct Policy, which will initiate outreach to the Complainant to discuss the availability of supportive measures with

VIII. UNIVERSITY RESPONSE TO REPORT OF SEXUAL HARASSMENT OR SEXUAL MISCONDUCT; SUPPORTIVE MEASURES; AND EMERGENCY REMOVAL

A. INITIAL CONTACT WITH COMPLAINANT

Upon receipt of a report of sexual harassment or sexual misconduct, the Title IX Coordinator or a Deputy Title IX Coordinator will promptly contact the Complainant to:

- Discuss the availability of supportive measures,
- Inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint,
- Consider the C R P S O D L Q D Q W ¶ V Z L V K H V Z L W K U H V S H F W W R V X and
- Explain to the Complainant the process for filing a formal complaint.

The Title IX Coordinator or Deputy Title IX Coordinator will also inform the Complainant of:

- The right to contact or decline to contact law enforcement if the conduct is criminal

cross examination purposes, acting to ensure and protect the rights of the Complainant at a Decision-

- x The Appeal Process; and
- x Deadline to appeal removal from campus

3. Appeal of Emergency Removal

When the Title IX Coordinator or their designee issues a Notice of Emergency Removal, they will include information on how the Respondent can appeal that decision. The decision to remove a Respondent from campus is not made on the merits of the allegations, but is rather an administrative process to provide for the physical health or safety of any student or other individual or the campus community. As such, any appeal of the Notice of Emergency Removal is only an appeal of the removal order; no inference can be drawn during the investigative or grievance process as a result of the appeal or its outcome.

An appeal of the Notice of Emergency Removal must be filed within three (3) business days of the initial notice being sent. Appeals will be directed to the Vice President of Student Life (students) or the Vice President for Human Resources (faculty or staff). Appeals must be filed via email D Q G V K R X O G F R Q W D L Q W K H 5 H V S R Q G H C emergency removal should not occur, or reasons for appeal of the Emergency Removal. The reasons should be based upon the information provided in the Notice of Emergency Removal.

If an appeal is not filed within

determine it is necessary to proceed. The determination as to whether the Title IX Coordinator or a Deputy Title IX Coordinator will sign a complaint, if the Complainant does not wish to proceed, will be based on information received from the Complainant during the initial meeting, and considering the following:

- ‡ The nature and circumstances of the report.
- ‡ I

In many cases, the Title IX Coordinator or designee may assess the information provided with the assistance of the Central Review Team to determine if any of the following actions are necessary:

- Emergency removal of a student Respondent on the basis of immediate threat to physical health/safety.
- Placement of an employee Respondent on administrative leave.
- Pursuit/signing of a formal complaint by the Title IX Coordinator absent a

cooperate with local law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law.

Because the standards for finding a violation of criminal law are different from the standards

Upon receipt of the complaint, the Title IX Coordinator or a Deputy Title IX Coordinator may contact the Complainant if additional information is needed.

B. NOTICE OF FORMAL COMPLAINT TO THE PARTIES

Upon receipt of a formal written complaint, the Title IX Coordinator or a Deputy Title IX Coordinator will provide a written notice (known as a Notice of Allegations and Investigation) to the known parties containing the following information:

- 1RWLFH RI WKH 8QLYHUVLW\¶V grievance process.
- Notice of the allegations of sexual harassment or sexual misconduct, includi

a. The Complainant notifies the Title IX Coordinator or their designee in writing that the Complainant would like to withdraw the complaint or any allegations therein.
b. The Respondent is no longer enrolled or employed by the University.
c. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

When the Univ

The Informal Process is not available as an option when a Complainant is a student who alleges sexual harassment or sexual misconduct against a Respondent who is a faculty or staff member at the University, or vice versa.

The parties may elect to engage in the informal process at any time prior to a Decision-Making Panel finding; however, both parties must indicate their agreement to participate in the informal process in writing. Once the parties agree in writing to engage in the informal process, they will receive from the Title IX Coordinator or designee a written notice with the following information that includes:

- The allegations.
- The requirements of the Informal Process including the circumstances under which it precludes the parties from resuming a formal complainant arising from the same allegations.
- $ S D U W \ ¶ V U L J K W W R Informal Process and Resume the grievance process with respect to the formal complaint at any time prior to agreeing to a resolution.
- Any consequences resulting from participating in the Informal Process, including the

More information on the Informal Process can be found in Appendix F.

XI. FORMAL GRIEVANCE PROCESS

A. INVESTIGATION

1. OVERVIEW OF THE INVESTIGATION

When the formal written complaint moves forward to an investigation, the Title IX Coordinator will initiate an investigation. The investigation is designed to provide a fair, objective, and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, without conflict of interest or bias, and all individuals will be treated with appropriate sensitivity and respect. As

parties, and other electronic records as appropriate and as described more fully below. The Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information.

4. COMPLAINANT AND RESPONDENT INTERVIEWS

The Investigator(s) will interview the Complainant and Respondent separately. Each party will be asked to participate in an initial interview and may be asked to participate in follow up

proposed witness from a Complainant or Respondent prior to deciding whether to interview a witness. Investigators may determine not to interview a witness if it is apparent that the witness did not observe the acts in question or have information relevant to the incident and

The Complainant and Respondent may submit any additional evidence and/or a written submission to the Investigator(s) within ten (10) calendar days of being notified of the opportunity to review the report.

Upon receipt of any additional information from the Complainant or Respondent, or after the ten (10) calendar day comment period has lapsed without comment, the Investigator(s) will prepare the final investigation report.

The final investigation report will be sent to the Complainant and Respondent, and their respective Advisors, at least ten (10) calendar days before a Decision-Making Hearing. The final investigation report and all evidence will also be made available at the Decision-Making Hearing at the same time as it is distributed to the Complainant and Respondent.

B. HEARING PROCESS

1. PREPARING FOR THE HEARING

The Complainant and Respondent must have an Advisor present during the Decision-Making Hearing for purposes of cross examination. While the parties are entitled to an Advisor at all stages of the process, at the time that the Title IX Coordinator provides the parties with the investigative report and evidence, they will be asked to name their Advisor.

If a party does not identify an Advisor within three (3) business days of being informed of the date and time of the Decision Making Hearing, the Title IX Coordinator will assign an Advisor from a trained pool of faculty and staff free of charge to conduct cross examination on behalf of the party. If the party objects to the Advisor selected, they must notify the Title IX Coordinator at least 3 business days prior to the commencement of the Decision-Making Hearing.

If necessary, the Title IX Coordinator ma 331.63 62.11 30.0/F24 14>> BDC q0.-3(n)grIX

to the Respondent and is being RIIHUHG WR SURYH FRQVHQW DQG E\ ZKL consent definition.

The Advisor, who will remain seated during questioning, will pose the proposed question orally. The Advisor will normally be granted latitude to conduct their own cross-examination, with the Chair interjecting when a question is irrelevant, needs clarification, or for other reasons should be modified or disallowed. If necessary, the Chair will instruct the Advisor to conduct their cross-examination by asking a question and then pausing to allow the Chair to consider it (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased. The Chair has full discretion to determine when this additional step is necessary.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious, or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

When a cross-examination question questions facts of sexual predisposition or prior sexual behavior, the Chair must not allow the party being cross examined to answer the question, and inform the advisor that the question is not relevant and not allowed, unless the Decision Making Panel determines that the question is being offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or if the questions and HYLGHQFH FRQFHUQ VSHFLILF LQFLGHQWV RI WKH FRPSODLQ WR WKH UHVSRQGHQW DQG DUH RIIHUHG WR SURYH FRQVHQW definition.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not formally raised as an issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

C. DECISION-MAKING PANEL DELIBERATION, STANDARD OF PROOF, AND NOTICE OF OUTCOME

After the Hearing is concluded, the Decision Making Panel will deliberate in closed session to determine whether the Respondent is responsible or not responsible for some or all of the alleged policy violations by applying the clear and convincing standard . A simple majority vote is required to determine the finding.

The Clear and Convincing Evidence standard of proof is to determine if a finding of

responsibility is appropriate. Clear and convincing means that the evidence is highly and substantially more likely to be true than untrue; the fact finder must be convinced that the contention is highly probable.

Where there is evidence of a pattern of similar conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a policy violation, this information may be deemed relevant to the determination of policy violation and/or a sanction. Where there is a prior finding of a policy violation by the Respondent for a similar act of prohibited conduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and assigning of a sanction.

The Decision-Making Panel will prepare written decision, called a Notice of Outcome, applying the clear and convincing standard and sanctions and/or remedies. The Decision-Making Panel's Notice of Outcome must include the following information:

- Identification of the allegations constituting Title IX Sexual Harassment or Sexual Misconduct (and, if appropriate, other charges contained in the Notice of Allegations).
- A description of the procedural steps taken from the receipt of the formal complaint through the determination (including notification to the parties, interviews with the 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 policy to the facts.
- A statement of, and rationale for, the result as to each allegation, including:
  - any disciplinary sanctions the Decision Making Panel imposes on the Respondent, and
  - whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the Complainant
- The University's procedures and permissible bases for the Complainant and Respondent to appeal dismissal of the complaint or the Decision-Making Panel's determination.

D. SANCTIONS AND/OR REMEDIES

If the Decision-

Further information about Sanctions can be found in Appendix (B).

Within five (5) days of the sanction(s) and/or remedies being decided, the Notice of Outcome will be sent to the Title IX Coordinator, unless the Title IX Coordinator grants an extension due to the length or complexity of the decision.

F. NOTICE OF OUTCOME WRITTEN DECISION

Both the Respondent and Complainant will simultaneously receive the Notice of Outcome from the Title IX Coordinator or designee within five (5) business days of receiving it from the Decision Making Panel. To provide notice of outcome, University-issued e-mail is the primary means of communication. An alternative method of notice may include through the U.S. Mail or equivalent mailing to the local or permanent address of the individual as indicated in official University records.

The University may also notify appropriate University officials of the sanction and/or remedies, such as the Chief of the University Police Department, Residence Life staff and/or coaches, as necessary, to implement the outcome and/or sanctions.

G. WITHDRAWAL OR RESIGNATION WITH OPEN MATTERS

1. Students

Should a student decide to not participate in the resolution process, the process will proceed absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University, the resolution process ends, as the University no longer hls

The employee who resigns with unresolved allegations pending is not eligible for rehire with the University. The records retained by the Title IX Coordinator will reflect that status, and notice of that status will be provided to Human Resources and the Provost as appropriate.

All University responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

XIII. APPEAL

The Complainant and/or Respondent may appeal a determination regarding responsibility, and from a dismissal or partial dismissal of the formal complaint. The dismissal, outcome and/or sanction can be appealed by either party within five (5) business days from the time of notification of the decision. A review of the matter will be prompt and narrowly tailored to stated appeal grounds. The limited grounds for appeal are as follows:

- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- Procedural irregularity that affected the outcome of the matter; or
- The Title IX Coordinator or designee, investigator(s), or decision maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Appeals must be in writing and submitted to the Vice President for Student Life or their designee (for students) or the Vice President for Human Resources or their designee (for employees) with a copy to the Title IX Coordinator. The appeal shall consist of a plain, concise, and complete written statement of the grounds for the appeal. Dissatisfaction with the outcome of the investigation is not grounds for appeal.

The designated University official to whom the appeal was submitted shall determine whether grounds for appeal have been met and, if so, refer the Appeal to the Title IX Coordinator to convene the Appeal Panel. The Title IX Coordinator will provide the opposing party notice of the Appeal. Both the Complainant and Respondent will be provided with the opportunity to submit a written statement supporting or challenging the outcome of the decision. Any response to the Appeal must be submitted within five (5) business days from notice of the Appeal.

The Title IX Coordinator will convene an Appeal Panel chosen from a pool of trained faculty and staff. The appeal will typically be completed within ten (10) business days.

In any request for an appeal, the burden of proof lies with the party requesting the Appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The Appeal is not a new review of the underlying matter.

In most cases, Appeals are confined to a review of the written documentation or record of the original investigation and determination, and relevant documentation regarding the grounds for Appeal. This is not an opportunity for the Appeal Panel to substitute its judgment

for that of the original reviewing body merely because of disagreement with the finding or sanctions. Appeals decisions are to be deferential to the original reviewing body, making changes to the finding only where there is clear error based on the stated appeal grounds.

- In the case of Deviation from University Policy or Procedure, the Appeal Panel must determine if there was a material deviation that may have affected the outcome and, if so, ask that a new investigation occur from the point that the procedural deviation took place.

- In the case of New Information that could materially affect the findings of the Decision-Making Panel, the Appeal Panel may affirm findings and determinations, or recommend that the case be returned to the Decision-Making Panel to assess the weight and effect of the new information and render a determination after considering the new facts.

- In the case of Bias or Conflict of Interest, the Appeal Panel must determine if there was a bias or conflict of interest that may have affected the outcome, and if so ask that a investigation or decision making panel occur from the point that the bias or conflict of interest may have had an affect on the outcome.

XIV. RETALIATION

No person or the University may retaliate against parties or witnesses under this policy. 5HWDOLDWLRQ LV GHILQHG DV DFWV RU ZRUGV WDNHQ DJDLQ participation in a protected activity that would discourage a reasonable person from engaging LQ WKDW SURWHFWHG DFWLYLW\ 3URWHFWHG DFWLYLW\ LQF in the reporting, filing a complaint, testifying, assisting, participating or refusing to participate in an investigation, proceeding, hearing, or resolution of an alleged violation of this Policy; or (ii) opposition to policies, practices, or actions that the individual reasonably believes are in violation of the Policy.

Retaliation may include intimidation, threats, coercion, discrimination,

complainant and the complainant and the person are not married to each other.

(b) Aggravated indecent assault of a child.--A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.

3126. Indecent assault
(a) Offense defined.--A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:

APPENDIX B

Sanctioning and Remedy Guidelines

After a Respondent is found Responsible for a violation of the Sexual Harassment and Sexual Misconduct Policy, the Decision Making Panel will contact the Title IX Coordinator or designee, who will provide any additional information that the Decision Making Panel may need to determine appropriate sanctions and remedies, including but not limited to prior findings of responsibility, prior reports of misconduct, c

are suspended. Suspension may entail the imposition of conditions that the student must meet in order to resume studies at the University. Suspension also may include conditions that will be in place once the student resumes University studies. While suspended, the student loses all University rights and privileges, may not represent the University in any manner and may not visit the campus without prior approval of the Vice President for Student Life (or designee). Suspension may be for the remainder of a semester or for no more than four semesters. No more than three (3) F U H G L W V R I F R X U V H Z R U N L I D S S U R Y H G E \ W K H V W X G H Q taken at another institution during a period of suspension may be transferred to the University. Suspension is permanently recorded in the Office of Student Conduct. The student must meet with the Vice President for Student Life (or designee) following the term of suspension. The Vice President for Student Life (or designee) will determine whether the student may resume studies after considering whether all F R Q G L W L R Q V R I W K H V X V S H Q V L R Q K D Y H E H H Q P H W $ Q V during the period of suspension will be reviewed by the Vice President for Student Life (or designee) before the student is allowed to resume studies. The Vice President for Student Life (or designee) will strongly consider expulsion as a sanctions for misconduct that occurs during a period of suspension. Suspension is permanently recorded in the Office of Student Conduct.

- Expulsion: Expulsion is imposed for very serious misconduct, repetitive behavior, or for misconduct by a student who has previously been suspended when it is believed that a student should be permanently removed from the University community. An expelled student is not in good disciplinary standing with the University and is not eligible for readmission. Expulsion is permanently recorded in the Office of Student Conduct.
- Withholding of Degree: The University may withhold awarding a degree as a disciplinary sanction if the accused student is found responsible and is of senior class status. The degree may be withheld until the completion of the disciplinary process, including completion of all administrative and developmental sanctions imposed. A student of senior class status who is subject to a pending disciplinary proceeding is not eligible to receive a degree or participate in senior week activities, Baccalaureate Mass, and Commencement until the disciplinary process is completed. Depending on the nature of the charge(s), the student may be allowed to remain on campus to complete academic requirements for degree status at the discretion of the Title IX Coordinator (o U G H V L J Q H H + R Z H Y H U W K H V W X G H Q W ¶ V G H J U I after the completion of the disciplinary process, including completion of all sanctions imposed.
- Revocation of Degree: The University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

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

- Educational Activity/Activities: Students may be required to perform activities that are designed to be educational. Examples of such activities include, but are not limited to, attending an educational class or workshop, giving or attending a presentation,

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)/action(s), including suspension, expulsion, and/or termination from the University and may be noted on a V W X G H Q W ¶ V R I I L F L D O W U D Q V F U L S W $ Q \ V D Q F W L R Q W K D W dependent on the successful completion of all other sanctions; if the Respondent has not completed all other assigned sanctions, they will not be reinstated until they have complied.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator. Sanctions will be overseen by the Office of Student Conduct, who will inform the Title IX Coordinator when sanctions are completed.

APPENDIX C

Faculty Right to Representation (Weingarten Rule)

violations, they should pursue those contributions, and inform the Title IX Coordinator if they need additional authority, or if they need material that is not normally accessible to them.

At a minimum, the Investigator is expected to:

- , Q W H U Y L H Z Complainant, Respondent and any and all witnesses
- & R O O H F W D O O H Y L G H Q F H
- 2 E W D L Q Q H F H V V D U \ D G G L W L R Q D O H Y L G H Q F H
- ' U D I W D Q L Q Y H V W L J D W L R Q U H S R U W

In addition to the training for all volunteers, investigators will also receive training on the following:

- The skills necessary to gather the evidence for a fair and unbiased investigation
- The ability to create an investigative report that fairly summarizes all the relevant evidence
-

Advisor to accommodate their inability to attend, if doing so does not cause an unreasonable delay. The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Any Advisor who does not comply with their role as defined by this policy or in the Code of Decorum will receive one warning. If the Advisor continues to disrupt or otherwise fails to

Hearing

- The Decision-Making Panel Chair, in consultation with the Decision-Making Panel, will admonish any questioner who uses the questioning opportunity to intimidate or abuse a party or witness.
- The Decision-Maker or Chair will control any party, Advisor, or representative who exceeds the scope of their role or the bounds of propriety/civility appropriate to the decorum of a formal hearing.
- The Advisor must question all other opposing parties and witnesses.
- All questions should be posed verbally, subject to interjection by the decision-maker or Chair;
    - All relevant questions should be permitted, unless they are:
        - Abusive and/or bullying
        - Irrelevant
        - Confusing
        - Unduly repetitive
        - Prohibited by established procedural rules
        - Related to sexual predisposition or prior sexual behavior, unless specifically offered to prove that someone other than the Respondent committed the alleged act, or to show that specific incidents of the &RPSODLQDQW¶V SULRU VH[XDO EHKDYLRU ZLWK offered to prove consent.
- The Advisor should allow time for the decision-maker or Chair to vet all questions, and when necessary:
    - Direct the witness/party not to answer the question as posed, and explain why; or
    - Ask the questioner to rephrase or reframe the question based on the articulated concerns of the decision-maker or Chair; or
    - Ask to rephrase or reframe the question on the questioners behalf if necessary
- The Decision-Maker or Chair is charged with the responsibility to determine admissibility of relevant evidence and controls all evidence; all evidence should be shown to the Chair prior to being provided to a witness. Any evidence that has been

2. PRIVACY

Informal resolution proceedings are private. Privacy is not confidentiality. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with the 8 Q L Y H U V L W \ ¶ V

The parties have the discretion to share their own knowledge and experiences with others if they so choose, although there is an expectation of privacy around what is shared during facilitation. The only exception is when a Resolution Agreement includes a nondisclosure or non-disparagement clause.

3. ADVISORS

Parties are allowed to confer with their Advisors during the Informal Process, if they desire. Parties are expected to speak and communicate on their own behalf during the Informal Process. The role of the Advisor is to support, rather than advocate, during this process. The University encourages parties to discuss any sharing of any information or evidence with their Advisors before the Informal Process.

During the Informal Process, the Facilitator will primarily consult directly with the Complainant or Respondent. It is the responsibility of the Complainant or Respondent to ensure their Advisors have all the information they feel it is necessary to share with them.

4. SEVERABILITY

If a matter involves multiple Complainants or Respondents, the parties that are moving towards Informal Process will be severed from the other matters, pending the outcome of the Informal Process. If the matter is not resolved through the Informal Process, and returns to the Formal Process, the matter may be investigated or heard separately or jointly, as the Title IX Coordinator deems appropriate under the SHSM Policy. If the matter is resolved, the Facilitator will consult with the Title IX Coordinator to ensure that the Respondent is advised as to how their agreement will be used in relation to other matters prior to signing a Resolution Agreement.

5. TOLLING

Given that the parties are allowed to attempt an Informal Resolution without giving up their

During individual meetings with the parties, the Facilitator should focus on resolving the matter through a negotiated agreement that will provide the Complainant, Respondent, and the greater University Community with a safe educational environment. In these meetings, the Facilitator should seek to work with both parties to ascertain specific remedies and/or sanctions that will preserve their access to educational opportunities, and will address the underlying matter.

become emotional or exhibit stress. This step may occur after a Resolution Agreement is approved and signed by all relevant parties.

A Resolution Agreement may not require the same level of accountability for all potential violations. A Resolution Agreement must, however, address all potential violations or the Title IX Coordinator will not accept it as a resolution. For example, sanctions and remedies may be drafted to address all behaviors contained in the notice, but a Respondent may only apologize for one violation.

Once the draft Resolution Agreement is identified by the Facilitator, they will provide it to the Title IX Coordinator to review. Within three (3) business days, the Title IX Coordinator will either accept the draft or provide a list of unresolved issues to the Facilitator. The Facilitator will provide an amended Draft Resolution Agreement and/or a memo to reflect how they considered and resolved these unresolved issues.

After the Title IX Coordinator approves the Draft Resolution Agreement, the Facilitator will have each party sign the document. The Facilitator is responsible for making any face-to-face meetings or other formal gestures between the parties. Once those initial measures are completed, the Facilitator will return the Resolution Agreement to the Title IX Coordinator. When the Title IX Coordinator receives the signed Resolution Agreement, they will contact both parties and provide the status of the any ongoing sanctions or term agreements.

Once all parties have signed the Resolution Agreement, this outcome is not subject to appeal.

4. Ability to Return to Formal Process

At any point during the process, prior to signing a Resolution Agreement, either party may inform the Facilitator that they wish to return to the Formal Process. At that time, the Facilitator will inform the Title IX Coordinator that the parties are returning to the Formal Process, and the Title IX Coordinator will inform the parties of next steps.

If, during the process, the Facilitator has concerns about the suitability of the Informal Process for resolving the matter, they should consult with the Title IX Coordinator. If they believe that they cannot reach an Agreement between the parties, they should inform the Title IX Coordinator, who will then inform the parties of their options at that point.

Any evidence or admissions provided during the Informal Process is not automatically provided to the Investigator, and must either be provided directly from that party to the Investigator, or must be discovered through other means.

5. Enforcement

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