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ATIXA SEX/GENDER-BASED HARASSMENT,
DISCRIMINATION AND
SEXUAL MISCONDUCT MODEL POLICY

www.atixa.org

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Editor's Note: Welcome to our model policy and procedures. This publication is both guide and template, and we hope that sections of it, or its entirety, will help your campus or school to become compliant with Title IX, including the 2001 OCR Guidance on Sexual Harassment, 2011 Dear Colleague Letter, the SUNY and Montana OCR resolution templates, the 2014 OCR Q&A on Title IX, the April 2015 Dear Colleague Letter, the Violence Against Women Act Section 304 (March 2014), its implementing regulations finalized in October 2014, other relevant OCR Dear Colleague Letters, and the best practices emerging in the field.

There are a number of essential concepts that undergird this model, the foremost of which is the notion that we all have sexual sovereignty, the right not to be acted upon sexually by someone else unless and until we give clear permission. The law calls this autonomy. The field of student conduct uses the term equal dignity. Discrimination law calls it equity, but these are all lenses on the same fundamental concept, which we embrace fully and meaningfully.

Additionally, we use some terms of art intentionally. Gender-based misconduct is the umbrella for a wide range of behaviors that fall under that descriptor. We use the term sexual misconduct, too, when actions are gender-based, but manifest in sexual actions. We recommend that you use these terms, as they are the most-neutral and least fraught policy titles, when it comes to the need to avoid crime-laden language, terms that have their own connotations, such as abuse, and terms that could tend to minimize the severity of the actions they describe. We also use the term "victim" throughout this model, whereas many campuses prefer the term "survivor". This is intentional on our part. Rather than assuming a victim is a survivor, we believe each victim needs to decide at their own pace, whether and how they will become survivors. It is not for us to presume it. It also denotes the difference between policy language and advocacy language. Other advocacy-based documents on your campus rightfully should use the survivor term. Once a victim enters the process, we refer to them as the "reporting party". Reports brought by individuals other than the recipient of the unwelcome behavior are referred to as "third-party reports" and those bringing them are deemed "third

POLICY ON SEX/GENDER HARASSMENT, DISCRIMINATION AND MISCONDUCT

INTRODUCTION

Members of the university³ community, guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The university believes in zero tolerance for sex/gender-based misconduct. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a responding party is found to have violated this policy. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and ATIXA's model procedures (available to members) establish a mechanism for determining when those expectations have been violated⁴.

The university's sex/gender harassment, discrimination and misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom [link to university definition of academic freedom here or insert something like this: Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern].

The university uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof of whether a violation occurred. In campus resolution proceedings, legal terms like "guilt," "innocence" and "burdens of proof" are not applicable, but the university never assumes a responding party is in violation of university policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

TITLE IX COORDINATOR

The university's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. The Coordinator reports [directly] to the [President of the University], and is housed in the office of []. Questions about this policy

³ Rather than awkwardly inserting "college/university" every time an institution is referenced, this model policy uses the convention "university" with the understanding that "college" can be substituted by the end-user as necessary with a simple find-and-replace command.

⁴ The policy and procedure models offered by ATIXA have been, in part or in full, promulgated by the White House

OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS⁷

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. The university does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the university. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student, supervisor-supervisee) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes Resident Advisors (RAs) and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee⁸.

SEXUAL VIOLENCE -- RISK REDUCTION TIPS

Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit sexual violence are responsible for those actions. We offer the tips below with no intention to victim-blame, with recognition that these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- ✧ If you have limits, make them known as early as possible.
- ✧ Tell a sexual aggressor **NO** clearly and firmly.
- ✧ Try to remove yourself from the physical presence of a sexual aggressor.
- ✧ Find someone nearby and ask for help.

⁷ This section is offered as an optional conclusion, as some campuses prefer to include this policy elsewhere, such as a faculty handbook or employee manual. We include it here to inform students, not just employees, of our expectat

is harassment regardless of whether the student accedes to the request.

- ¥ A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- ¥ Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door
- ¥ Two supervisors frequently "rate" several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- ¥ A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- ¥ An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus
- ¥ Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
- ¥ A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

2. NON-CONSENSUAL SEXUAL CONTACT

Non-Consensual Sexual Contact is:

- ¥ any intentional sexual touching,
- ¥ however slight,
- ¥ with any object,
- ¥ by a person upon another person,
- ¥ that is without consent and/or by force¹¹.

Sexual Contact includes:

- ¥ Intentional contact with the breasts, buttock, groin, or genitals, or touching another with

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- o Coercion is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- o NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non

how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? Jiang would be held responsible in this scenario for Non Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.

- 1+ Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and John says yes. Clothes go flying, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to the Dean. This is a violation of the Non-Consensual Sexual Intercourse Policy. Kevin should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin thought John was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of John in his condition. This is not the level of respectful conduct the university expects.

OTHER MISCONDUCT OFFENSES (WILL FALL UNDER TITLE IX WHEN SEX OR GENDER-BASED)¹⁶

1. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
2. Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex or gender;

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Confidentiality and Reporting of Offenses Under This Policy

All university employees (faculty, staff, administrators) are expected to immediately report actual or suspected discrimination or harassment to appropriate officials, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials - thereby offering options and advice without any obligation to inform an outside agency or individual unless a victim has requested information to be shared. Other resources exist for a victim to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the two reporting options at university:

Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- ¥ On-campus licensed professional counselors and staff
- ¥ On-campus health service providers and staff
- ¥ [On-campus Victim Advocates]
- ¥ [On-campus members of the clergy/chaplains working within the scope of their licensure or ordination]
- ¥ [Athletic trainers] (if licensed, privileged under state statute and/or working under the supervision of a health professional)
- ¥ Off-campus:
 - o Licensed professional counselors
 - o Local rape crisis counselors
 - o Domestic violence resources,
 - o Local or state assistance agencies,
 - o Clergy/Chaplains

All of the above employees will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Campus counselors [and/or the Employee Assistance Program] are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit [timely, quarterly, semesterly, yearly] anonymous, aggregate statistical information for Clery Act purposes unless they believe it would be harmful to a specific client, patient or parishioner.

Formal Reporting Options

All university employees have a duty to report, unless they fall under the Confidential Reporting section above. Reporting parties may want to consider carefully whether they share personally

Certain campus officials (those deemed Campus Security Authorities) - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for

No, not unless you tell them. Whether you are the reporting party or the responding party, the University's primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. University officials will directly inform parents when requested to do so by a student, in a life-threatening situation, [or if an individual has signed the permission form at registration which allows such communication].

Will the responding party know my identity?

Yes, if the university determines there is reasonable cause to believe a violation has occurred and investigates the matter. The responding party has the right to know the identity of the reporting party. If there is a hearing, the university does provide options for questioning without confrontation, including closed-circuit testimony, Skype, using a room divider or using separate hearing rooms.

Do I have to name the responding party?

Yes, if you want formal disciplinary action to be taken against the responding party. You can report the incident without the identity of the responding party, but doing so may limit the institution's ability to respond comprehensively.

What do I do if I am accused of sexual misconduct?

DO NOT contact the reporting party. You may immediately want to contact someone who can act as your advisor [or advocate]; anyone may serve as your advisor [or advocate]. You may also contact the [Student Conduct Office], which can explain the university's procedures for addressing sexual misconduct reports. You may also want to talk to a confidential counselor at the counseling center or seek other community assistance. See below regarding legal representation.

Will I (as a victim) have to pay for counseling/or medical care?

Not typically, if the institution provides these services already. If a victim is accessing community and non-institutional services, payment for these will be subject to state/local laws, insurance requirements, etc. [In this state, victims may be ineligible for state-based assistance if they were engaged in any illegal activity during the assault or if they fail to cooperate with criminal prosecution].

What about legal advice?

Victims of criminal sexual assault need not retain a private attorney to pursue criminal prosecution because representation will be handled by the District Attorney's [Prosecutor's] office. You may want to retain an attorney if you are considering filing a civil action or are the

should go to the Hospital Emergency Room, before washing yourself or your clothing.¹⁹ The Sexual Assault Nurse Examiner (a specially trained nurse) at the hospital is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). A victim advocate from the institution can also accompany you to Hospital and law enforcement or Security can provide transportation. If a victim goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a victim, but will not obligation him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it.

For the Victim: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?

No. The seriousness of sexual misconduct is a major concern and the university does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct. The university provides amnesty from any consequences for minor policy violations that occur during or come to light as the result of a victim's report of sexual misconduct. 1evidll td ana

information. Use of alcohol and/or other drugs will never excuse a violation by a responding party.

Will either party's prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present matter.

What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the institution's sexual misconduct policy, you should contact the institution's Title IX Coordinator (not confidential) or counseling center [victim advocate's office] (confidential). [The institution also provides process advisors [or advocates] who can help you to define and clarify the event(s), and advise you of your options].

ATIXA SEX/GENDER-BASED HARASSMENT,
DISCRIMINATION AND
SEXUAL MISCONDUCT
MODEL RESOLUTION PROCEDURES

www.atixa.org

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include classes and/or all other university activities or privileges for which the student might otherwise be eligible. At the discretion of the [appropriate administrative officer Title IX/Equity/AA Coordinator or designee], alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures.

Formal and Informal Resolution Procedure for Reports of Misconduct

This procedure applies to any member of the university community (faculty, student, staff, administration) who engages in discrimination or harassment. Any person can report alleged harassment or discrimination, including faculty, students, staff, administration, guests, visitors, etc. All allegations of misconduct not involving harassment or discrimination will be addressed through the procedures elaborated in the respective student, faculty and employee handbooks.

Informal Resolution

Before pursuing the Formal Resolution Process, every reasonable effort should be made to constructively resolve conflict with students, faculty, staff, or administrators. The person impacted should keep a written log that can aid in later investigation and resolution. Whenever possible and safe, the problematic behavior, conflict or misconduct should first be discussed by the impacted person and the person engaged in the problematic behavior, conflict or misconduct. The Office of the Title IX Coordinator [Supervisors, Ombuds, etc.] will facilitate such conversations, upon request, and monitor them for safety. [Various conflict resolution mechanisms are available, including mediation. Mediation is not used when violent behavior is involved, when the Coordinator determines a situation is not eligible, or the parties are reluctant to participate in good faith]. The university does not require an impacted party to contact the person involved or that person's supervisor if doing so is impracticable, or if the impacted party believes that the conduct cannot be effectively addressed through informal means. If informal efforts are unsuccessful, the formal resolution process may be initiated. Either party has the right to end the informal process and begin the formal process at any time prior to resolution.

Formal Resolution Process for Reports of Misconduct by Employees

The [Office of Human Resources] is designated to formally investigate reports or notice of discrimination and/or harassment by employees, to address inquiries and coordinate the university's compliance efforts regarding employee-related reports.

Any member of the community can give provide notice of discrimination and/or harassment in person, by phone, via email or in writing to [Human Resources]. The university strongly encourages submission of written reports to [Human Resources].

The following are recommended elements of a report:

- ¥ Clear and concise description of the alleged incident(s) (e.g.: when and where it occurred);
- ¥ Any supporting documentation and evidence;
- ¥ Clear demonstration of all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor;
 - o This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort;
 - o If contacting the person involved and/or the supervisor is impracticable, the reporting party should state the reasons why;
- ¥ The desired remedy sought;
- ¥ Name and all contact information for the reporting party;
- ¥ Signed by the reporting party.

If the reporting party wishes to pursue a formal resolution or if university, based on the alleged policy violation, wishes to pursue a formal resolution, then the Title IX Coordinator appoints trained investigators (typically using a team of two investigators), to conduct the investigation, usually within two business days of determining that a resolution should proceed. Investigations are completed expeditiously, normally within 10-14 business days of the completion of the preliminary inquiry by the Title IX Coordinator. Investigations may take longer when, for example, initial reports fail to provide direct first-hand information or in complex situations.

The university's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the university may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g.: to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The university will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

The investigator will take the following steps (not necessarily in order):

- ¥ In coordination with campus partners (e.g.: the campus Title IX Coordinator), initiate any necessary remedial actions;
- ¥ Determine the identity and contact information of the reporting party;
- ¥ Identify the exact policies allegedly violated;
- ¥ Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the responding party, and what policy violations should be alleged as part of the charge;

[insert or link Title IX and VAWA Section 304/Clery-compliant hearing procedures from student handbook here, if desired].

The [Office of Student Conduct] has final decision-making authority with regard to formal reports, subject to appeal. Where the responding party is found in violation as the result of a hearing²⁰, the [Office of Student Conduct] will impose appropriate sanctions for the violation²¹, after consultation with the Title IX Coordinator, when applicable. The university will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the university community. Appeal proceedings as described below apply to all parties to the report. The parties will receive written notification of the outcome of the hearing, to the extent permitted or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification includes the finding, any resulting sanctions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications, explains appeals options and procedures, and any changes to the results that could occur before the decision is finalized.

Participation of Advisors [or Advocates] in the Resolution Process

All parties are entitled to an advisor [or advocate] of their choosing to guide and accompany them throughout the campus resolution process. The advisor [or advocate] may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is both eligible and available. People who will be called as witnesses may not serve as advisors [or advocates]. The university maintains a pool of trained (non-attorney) advisors [or advocates] who are available to the parties. The parties may choose advisors [or advocates] from outside the pool, or outside the campus community, but those advisors may not have the same level of insight and training on the campus process as do those trained by the university. Outside advisors [or advocates] are not eligible to be trained by the university.

The parties are entitled to be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings and appeals. Advisors [or advocates] should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The university cannot guarantee equal advisory rights, meaning that if one party selects an advisor [or advocate] who is an attorney, but the other party does not, or cannot afford an attorney, the university is not obligated to provide one. However, the university maintains a listing of local attorneys who may offer their services pro bono.

[Additionally, responding parties may wish to contact organizations such as:

- ¥ FACE (<http://www.facecampusequality.org>)
- ¥ SAVE (<http://www.saveservices.org>),

²⁰ Preferably in the form of a recommendation of finding and sanction to the Director of Student Conduct.

²¹ If your policies or procedures have not yet listed all available sanctions, we encourage you to do so in this section. Our listing of available sanctions is contained in the ATIXA model policy.

Reporting parties may wish to contact organizations such as:

- ¥ The Victim Rights Law Center (<http://www.victimrights.org>), or the
- ¥ The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victims Bar Association.]

All advisors [or advocates] are subject to the same campus rules, whether they are attorneys or not. Advisors [or advocates] may not present on behalf of their advisee in a meeting, interview or hearing and should request or wait for a break in the proceeding if they wish to interact with campus officials. Advisors [or advocates] may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors [or advocates] will typically be given a timely opportunity to meet in advance of any interview or hearing with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors [or advocates] to clarify any questions they may have, and allows the university an opportunity to clarify the role the advisor is expected to take.

Advisors [or advocates] are expected to refrain from interference with the university investigation and resolution. Any advisor [or advocate] who steps out of their role in any meeting under the campus resolution process will be warned once and only once. If the advisor [or advocate] continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor [or advocate] will be asked to leave the meeting. When an advisor [or advocate] is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the [Title IX Coordinator or a deputy] will determine whether the advisor [or advocate] may be reinstated, may be replaced by a different advisor [or advocate], or whether the party will forfeit the right to an advisor [or advocate] for the remainder of the process.

The university expects that the parties will wish the university to share documentation related to the allegations with their advisors [or advocates]. The university provides a consent form that authorizes such sharing. The parties must complete this form before the university is able to share records with an advisor [or advocate]. The parties are not otherwise restricted from discussing and sharing information relating to allegations with others who may support them or assist them in preparing and presenting. Advisors [or advocates] are expected to maintain the privacy of the records shared with them by the university. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the university. The university may seek to restrict the role of any advisor [or advocate] who does not respect the sensitive nature of the process or who fails to abide by the university's privacy expectations.

The university expects an advisor [or advocate] to adjust their schedule to allow them to attend university meetings when scheduled. The university does not typically change scheduled meetings to accommodate an advisor's [or advocate's] inability to attend. The university will, however make provisions to allow an advisor [or advocate] who cannot attend in person to attend

for a review of the decision or the sanctions imposed. The written decision will be provided 1) in person and/or mailed to the local mailing address of the respective party as indicated in university records and emailed to the parties' university-issued email accounts. If there is no local address on file, mail will be sent to the parties' permanent address. Once received in person, mailed or emailed, the notice of decision will be deemed presumptively delivered.

The [OSC] will share the appeal request with the other party (e.g., if the responding party files an appeal, the appeal is shared with the reporting party, who may also wish to file a response and/or bring their own appeal on separate grounds; this response or appeal will be shared with the initial appealing party). Based on the written requests/responses or on interviews as necessary, the [appeals officer or panel] will send a letter of outcome for the appeal to all parties. The [appeals officer or panel] can take one of three possible actions. The appeal may dismiss an appeal request as untimely or ineligible, may grant an appeal and remand the finding and/or sanction for further investigation or reconsideration at the hearing level, or may modify a sanction.

The original finding and sanction will stand if the appeal request is not timely or substantively eligible, and that decision is final. The party requesting appeal must show clear error as the original finding and/or a compelling justification to modify a sanction, as both finding and sanction are presumed to have been decided reasonably and appropriately during the original hearing.

The ONLY grounds for appeal are as follows:

1. A procedural [or substantive] error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.)²⁴;
2. To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. idency and itsd
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Special Resolution Process Provisions

e. University-initiated proceedings

As necessary, university reserves the right to initiate a report and to initiate resolution proceedings without a formal report or participation by the victim of misconduct.

f. Notification of Outcomes

The outcome of a campus hearing is part of the education record of the responding party, and is protected from release under a federal law, FERPA. However, the university observes the legal exceptions as follows:

- ¥ Parties to non-consensual sexual contact/intercourse, sexual exploitation, sexual harassment, stalking, and intimate partner violence incidents have an absolute right to be informed of the outcome, essential findings/rationale, and any sanctions that may result, in writing, without condition or limitation, and without substantial delay between notifications to each party.
- ¥ The university may

information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be reviewed in advance of the hearing by the [Director of Student Conduct]. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the [Director of Student Conduct] may supply previous reports of good faith allegations and/or findings to the investigators, the hearing officers, and [appeals officer or panel] to consider as evidence of pattern and/or predatory conduct.

e. Witness participation in an investigation

Witnesses are expected to cooperate with and participate in the university's investigation. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in a hearing. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person. Parties who elect not to participate in the investigation will have the opportunity to offer evidence during the hearing and/or appeal stages of the process, though failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence. Any witness scheduled to participate in a hearing must have been interviewed first by investigators (or have proffered a written statement), unless all parties consent to the participation of that witness in the hearing.

f. Training for those implementing these procedures

Personnel tasked with implementing these procedures, e.g.: Title IX Coordinator, investigators, hearing officers, appellate officers, etc.) will be trained at least annually. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to sexual harassment and discrimination allegations; the university's Sex/Gender-based Discrimination and Sexual Misconduct Policies and Procedures; confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance.

g. Conflicts of Interest and Bias

The university is committed to ensuring that its resolution processes (e.g.: investigation, hearing, appeal, etc.) are free from actual or perceived bias or conflicts of interest that would materially impact the outcome. Any party who feels that there is actual or perceived bias or conflict of interest that would materially impact the outcome may submit a written petition for the person's removal from the process. The petition should include specifics as to the actual or perceived bias or conflict of interest, as why the petitioner believes the bias or conflict could materially impact the outcome. When the allegation involves a responding party who is an employee, petitions should be submitted promptly to the [Director of Human Resources]. When the allegation involves a responding party who is a student, petitions should be submitted promptly to the [Director of Student Conduct]. Such petitions may also be made to the Title IX Coordinator, or to the university president in the event that