

HOWARD UNIVERSITY POLICY

Policy Number:	400-005 Governance, Risk and Compliance
Policy Title:	POLICY PROHIBITING SEX AND GENDER-BASED DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT, AND RETALIATION
Responsible Officers:	Provost and Chief Academic Officer Delegated Responsible Officer: Title IX Director
Responsible Offices:	Office of the Provost and Chief Academic Officer Delegated Responsible Office: Title IX Office
Effective Dates:	August 1, 2024 (Revised-New Regulatory Requirements) September 9, 2022 (Conforming Amendments) August 14, 2020 (Revised Policy – Issued as Interim) September 2019 (Conforming Amendments) November 13, 2017 (Revised Policy – Issued as Interim) January 18, 2017 (Revised Policy) April 29, 2016 (Updated) March 9, 2016 (Revised Policy) May 31, 2015 (Revised Policy) March 12, 2015 (Revised Policy – Issued as Interim) August 11, 2011 (Updated Title IX Contacts) June 5, 1999 (Original Policy)

I. POLICY STATEMENT

Howard University, including Howard University Hospital (hereinafter referred to collectively as the “University”), is committed to ensuring compliance with Title IX of the Education Amendments of 1972, as amended (“Title IX”) and Title VII of the Civil Rights Act of 1964 as amended (“Title VII”), both of which are federal laws that prohibit sex discrimination, as well as applicable state and local laws that prohibit sex and gender-based discrimination, including sex-based harassment such as sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

Retaliation against anyone for filing a report or Complaint under this Policy, participating in the internal resolution process or any other process under this Policy, or opposing in a reasonable manner an act believed to constitute a violation of this Policy, is prohibited, will not be tolerated, and will be subject to disciplinary sanctions.

In furtherance of this commitment, the University strives to maintain an environment in which all members of the University community are: (a) evaluated and rewarded solely on the basis of ability, experience, effort, and performance; and (b) provided an educational and employment environment that is free from sex and gender-based discrimination, harassment, and violence.

Sex and gender-based discrimination, sex-based harassment, sexual misconduct, and retaliation (collectively referred to in this Policy as “Prohibited Conduct”) are violations of federal law as well as District of Columbia, Maryland, and Virginia law. Such conduct can result in physical and

psychological harm to individuals while corrupting the positive work and academic environment the University strives to maintain. Therefore, Prohibited Conduct committed by any member of the Howard University community, including students, student organizations, staff, faculty, administrators, contractors, and third parties, will not be tolerated under any circumstances. Such conduct may be prohibited by Title IX, and Title VII, the Fair Housing Act, and by University Policy.

The University considers the forms of Prohibited Conduct defined in this Policy to be very serious matters. In accordance with applicable federal law, the University has a legal obligation to investigate or otherwise respond to all reports of Prohibited Conduct.

This Policy honors and is not intended to limit the academic freedom of University faculty. The University prides itself on affording faculty members a fair opportunity to teach, conduct research, and provide services to the community in a setting that fosters the academic freedom necessary to cultivate a wide expanse of ideas and teaching methods. The University encourages the expression of such ideas and the use of such methods in a manner that is reasonably related to the subject matter of instruction and is consistent with this Policy and the rights of students, faculty members, staff, and University community members.

The Title IX Coordinator is primarily responsible for implementing this Policy and ensuring that all students and employees are adequately trained or otherwise made aware of their rights and responsibilities under this Policy. While it is the responsibility of the University to disseminate this Policy, it is the responsibility of each member of the University community to read the Policy and become familiar with its provisions.

The University has published a notice of nondiscrimination that includes information for contacting the University's Title IX Coordinator and the U.S. Department of Education. This notice is distributed widely to all students, employees, applicants for admission and employment, and other relevant individuals. The notice is prominently displayed on the University's website and included in publications of general distribution that provide information to students and employees about the University's services and policies, including each handbook or catalog that it makes available to individuals entitled to a notification.

II. RATIONALE

Title IX of the Education Amendments of 1972, as amended ("Title IX"), and its implementing regulations (34 CFR Part 106), prohibit any individual from being excluded from participation in, denied the benefits of, or subjected to discrimination under any education program or activity on the basis of sex.¹ In compliance with district and federal law, it is the policy of the University not to discriminate on the basis of sex in the education programs and activities that it operates. This prohibition against discrimination applies equally to employment in the University's education programs and activities and to admission to such programs and activities.

Further, this Policy is designed to protect all University students, faculty members, employees, and third parties from illegal and improper forms of harassment and discrimination. It provides students, faculty members, employees, and third parties with an opportunity to seek redress for conduct that

¹ For purposes of this Policy, "sex" includes sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

may violate this Policy and allows the University to reaffirm its commitment to providing educational and employment opportunities free from the negative effects of Prohibited Conduct. The University will respond to reports about Prohibited Conduct with measures designed to stop the conduct, prevent its recurrence, and remedy any adverse effects of the conduct on individuals, members of the campus community, or University-related programs or activities. In addition, the University may provide supportive measures to ensure continued access to University programs and activities and to protect individual and campus safety.

III. SCOPE AND JURISDICTION (ENTITIES AFFECTED BY THIS POLICY)

This Policy applies to the University's education programs and activities (defined as including locations, events, or circumstances in which the University exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the University has disciplinary authority, and to misconduct occurring within any building owned or controlled by a University-recognized student organization. A Complainant does not have to be a member of the University community to file a Complaint, at the discretion of Title IX Coordinator.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to the University's education program or activities. The University may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial University interest.

A substantial University interest includes:

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

For disciplinary action to be issued under this Policy, the Respondent must be a University faculty member, student, or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). The University can also assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers.

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

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Title IX Coordinator if brought to their attention.

IV. ONLINE HARASSMENT AND MISCONDUCT

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

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

V. COORDINATION WITH OTHER POLICIES

This Policy addresses discrimination on the basis of sex or gender, including sex-based harassment and sexual misconduct, as defined in more detail below. Other forms of discrimination and harassment based on other protected categories such as race, color, nationality or ethnic origin, age, or disability are governed by the Howard University Policy and Procedure on Equal Opportunity in Employment and Education Program and Activities. All such complaints or reports received by the Title IX Office will be referred to the University's EEO Office.

In addition, the conduct of students, employees, and faculty members is governed or impacted by the following:

[*Student Code of Conduct*](#)

[*Students Privacy Rights Policy \(FERPA\)*](#)

[*Clery Act Disclosure Policy*](#)

[*Employee Handbook*](#)

[*Howard University Faculty Handbook \(June 2019\)*](#)

[*Protection of Minors Policy*](#)

The University recognizes that reports and/or Complaints under this Policy may include multiple forms of discrimination and harassment as well as violations of other University policies; may involve various combinations of students, employees, and other members of the University community; and may require the simultaneous attention of multiple University departments. Accordingly, all University departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable University policies, to provide uniform, consistent, efficient, and effective responses to alleged Prohibited Conduct. Where conduct involves the potential violation of both this Policy and another University policy, the University may choose to investigate other potential misconduct under the procedures set forth in this Policy provided

that it does not unduly delay a prompt or equitable resolution of the report or may elect to investigate and resolve other potential misconduct pursuant to the procedures in other applicable University policies.

To the extent that any University policies or agreements provide information and/or procedures regarding the University's response to sex discrimination, including sexual misconduct, which are not consistent with this Policy, this Policy supersedes those policies or agreements, except for those guiding the University's response under the 2020 Title IX regulations.

V. DEFINITIONS

For purposes of this Policy, the following definitions apply:

Advisor: Any person chosen by a Party, or appointed by the institution, who may accompany the Party to all meetings related to the Resolution Process and advise the Party on that process.

Appeal Decision-maker: The person or panel who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action, accordingly.

Complainant: A student or employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct under the Policy and who was participating or attempting to participate in the University's education program or activity at the time of the alleged Prohibited Conduct.

Complaint: An oral or written request to the University that can objectively be understood as a request for the University to investigate and make a determination about the alleged Policy violation(s).

Day: Business day when the University is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.

Decision-maker: The person or panel who hears evidence, determines relevance, and makes the Final Determination of whether this Policy has been violated, and/or assigns sanctions.

Education Program or Activity: Locations, events, or circumstances where the University exercises substantial control over the context in which the Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that the University officially recognizes.

Employee: A person employed by the University either full- or part-time, including student employees when acting within the scope of their employment.

Final Determination: A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.

Gender: A social construct used to classify a person as a man, woman, or some other identity.

Gender Identity: A person's self-conception of being a man or woman, boy or girl, transgender, agender, or gender fluid.

Gender Expression: The physical manifestation of one's gender identity, usually expressed through clothing, grooming, mannerisms, chosen names, and social interactions that associate with the social definitions of masculinity and femininity rather than birth-assigned sex.

Informal Resolution Process: A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Formal Resolution Process.

Knowledge: When the University receives Notice of conduct that reasonably may constitute Prohibited Conduct in its Education Program or Activity.

Notice: When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of Prohibited Conduct.

Parental Status: The status a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is a biological parent, an adoptive parent, a foster parent, a stepparent, a legal custodian or guardian, in loco parentis with respect to such person, or actively seeking legal custody, guardianship, visitation, or adoption of such a person.

Parties: Refers to the Complainant(s) and Respondent(s), collectively.

Pregnancy or related conditions: Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.

Relevant Evidence: Evidence that may aid a Decision-maker in determining whether the alleged Prohibited Conduct occurred, or in determining the credibility of the Parties or witnesses.

Remedies: Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the University's Education Program and Activity.

Resolution Process: The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution and Formal Resolution.

Respondent: An individual who has been reported to have engaged in Prohibited Conduct.

Sex: Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sexual Orientation: An individual's natural or preferred attraction when developing emotional and/or sexual relationships with people of the same sex (homosexual relationships), different sexes (heterosexual relationships), or either sex (bisexual relationships).

Title IX Coordinator: The person with primary responsibility for overseeing and enforcing this Policy. As used in this Policy and procedures, the “Title IX Coordinator” also includes their designee(s).

University Community: Refers to all members of the Howard University community including, but not limited to, students, faculty, administrative personnel, staff, and members of the Howard University Board of Trustees.

Witness: An individual who may have information relevant to a report of Prohibited Conduct. A witness may be a student, an employee, or a third party.

VI. TITLE IX COORDINATOR

The Howard University Title IX Director (“Title IX Coordinator”) serves as the University’s Title IX Coordinator. The Title IX Coordinator coordinates the University’s compliance with Title IX and applicable state and local laws governing sex discrimination, including sexual misconduct, and oversees the University’s centralized response to all reports of Prohibited Conduct to ensure consistent implementation of this Policy. The Title IX Coordinator is responsible for coordinating the activities of all individuals who may have responsibilities under this Policy as necessary to fulfill the University’s obligations under this Policy.

The Title IX Coordinator’s contact information is as follows:

Angie Logan-Pope
Title IX Director/Title IX Coordinator
Administration Building
2400 6th Street, N.W., Suite G06
Washington, D.C. 20059
Phone: (202) 806-2550
Email: TitleIX@howard.edu

The Title IX Coordinator may delegate responsibilities under this Policy to designated administrators or external professionals who will have appropriate training and/or experience. When used in this Policy, the term Title IX Coordinator may include a Deputy Title IX Coordinator or other appropriate designee.

The Title IX Coordinator and designated staff members will:

- Communicate with all members of the University community regarding applicable law and policy and provide information about how individuals may access reporting and support options.
- Review applicable University policies to ensure institutional compliance with applicable federal, state, and District of Columbia law.
- Monitor the University’s administration of its own applicable policies, including record keeping, adherence to timeframes, and other procedural requirements.
- Conduct training regarding Title IX and Prohibited Conduct defined in this Policy.
- Respond to any report regarding conduct that may violate this Policy.

The Title IX Coordinator and designated staff act with independence and authority free from bias and conflicts of interest. The Title IX Coordinator and designated staff are vetted and trained to ensure they are not biased for or against any Party in a specific Complaint, or for or against Complainants and/or Respondents, generally. To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the University's Office of Audit and Compliance (OAC). Concerns of bias or a potential conflict of interest by any other Title IX Officers or individuals with decision-making responsibilities in the process should be raised with the Title IX Coordinator.

VII. PROHIBITED CONDUCT

The following forms of conduct, including attempting to engage in such conduct, are expressly prohibited by this Policy:

- A. **Sex Discrimination:** Any intentional or unintentional act that results in an individual being excluded from participation in, denied the benefits of, treated differently, or that otherwise adversely affects a term or condition of the individual's employment or education based upon the individual's sex/gender.

Examples of Sex Discrimination: Specifically, under this Policy, in providing any aid, benefit, or service to a person, no person shall, on the basis of sex/gender:

- Treat a person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service.
- Provide different aid, benefits, or services, or provide aid, benefits, or services in a different manner.
- Deny any person any aid, benefit, or service.
- Subject any person to separate or different rules of behavior, sanctions, or other treatment.
- Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for fees and tuition.
- Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex, gender, gender identity, gender expression, non-conformance with gender stereotypes, or sexual orientation.
- Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

- B. **Sex-based Harassment (applicable under Title IX, Title VII, and the Fair Housing Act):** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,² including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

² Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

1. **Quid Pro Quo:** which means an employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity explicitly or impliedly conditions the provision of such aid, benefit, or service on a person's participation in unwelcome sexual conduct.
2. **Hostile Environment Harassment:** unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity (*i.e.*, creates a hostile environment).

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- a. The degree to which the conduct affected the Complainant's ability to access the University's education program or activity.
- b. The type, frequency, and duration of the conduct.
- c. The Parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct.
- d. The location of the conduct and the context in which the conduct occurred.
- e. Other sex-based harassment in the University's education program or activity.

The University reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on sex. Addressing such conduct will not result in the imposition of discipline under University Policy, but may be addressed through respectful conversation, remedial actions, education, or informal resolution mechanisms.

3. Sexual Assault³

- a. **Rape:** Penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- b. **Fondling:** The touching of the private body parts of the Complainant (buttocks, groin, genitals, breasts), for the purpose of sexual gratification without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.
- c. **Incest:** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the statutory age of consent which is 16 years of age.

³ These definitions include the Respondent causing the Complainant to touch the Respondent sexually, forcibly, and/or without their consent.

4. **Dating Violence:** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
5. **Domestic Violence:** violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by domestic or family violence laws of the District of Columbia, Virginia, or Maryland.
6. **Stalking:** means engaging in a course of conduct, on the basis of sex, directed at the Complainant that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. Substantial emotional distress may not necessarily require medical or other professional treatment or counseling.

For the purposes of this definition—

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

C. Other Prohibited Conduct

1. **Sexual Exploitation:** is a form of sexual misconduct and means an individual taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based Harassment, for their own benefit or for the benefit of anyone other than the person being exploited. Examples of Sexual Exploitation include, but are not limited to:
 - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed).
 - Invasion of sexual privacy (e.g., doxxing).
 - Knowingly making an unwelcome disclosure of (or threatening to disclose) a person’s sexual orientation, gender identity, or gender expression.
 - Taking pictures, video, or audio recording of another person in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe

sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography.

- Prostituting another person.
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection.
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity.
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing).
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity.
- Knowingly soliciting a minor for sexual activity.
- Engaging in sex trafficking.
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings.
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes).

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

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

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

4. **Failure to Comply/Process Interference:** Intentional failure to comply with the reasonable directives of the Title IX Coordinator in the performance of their official duties, including with the terms of a no contact order; intentional failure to comply with emergency removal or interim suspension terms; intentional failure to comply with sanctions; intentional failure to adhere to the terms of an Informal Resolution agreement; intentional failure to comply with mandated reporting duties as defined in this Policy; and/or intentional interference with the Resolution Process, including, but not limited to: destruction of or concealing of evidence; actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence; intimidating or bribing a witness or party.
5. **False Allegations and Evidence:** Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate University policies.

D. Sanction Ranges

1. **Sex Discrimination:** warning through expulsion or termination.
2. **Quid Pro Quo Harassment:** warning through expulsion or termination.
3. **Hostile Environment Harassment:** warning through expulsion or termination.
4. **Rape:** suspension through expulsion or termination.
5. **Fondling:** warning through suspension (termination for employees).
6. **Incest:** warning through probation.
7. **Statutory Rape:** warning through suspension (termination for employees).
8. **Stalking:** probation through expulsion or termination.
9. **Dating/Domestic Violence:** probation through expulsion or termination.
10. **Sexual Exploitation:** warning through expulsion or termination.
11. **Retaliation:** warning through expulsion or termination.
12. **Unauthorized Disclosure:** warning through expulsion or termination.
13. **Failure to Comply/Process Interference:** warning through expulsion or termination.
14. **False Allegations and Evidence:** warning through expulsion or termination.

E. Force, Coercion, Consent, and Incapacitation

1. **Force:** is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).
2. **Coercion:** is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, 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. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

3. **Consent:** Consent is voluntary, informed, and freely given permission, through clear words and/or actions, to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate in a particular sexual act.⁴

In evaluating whether consent has been freely sought and given, the University will consider the presence of any force, threat of force, or coercion; whether the Complainant had the capacity to give consent; and whether the communication (through clear words and/or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with similar identities) as a willingness to engage in a particular sexual act.

Consent cannot be obtained through physical force or where there is a reasonable belief of the threat of physical force, when one person takes advantage of the physical or psychological limitations of another person, or by taking advantage of another person's incapacitation.

Important points regarding consent include:

- Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse).
- Consent on a prior occasion does not automatically constitute consent on a subsequent occasion.
- Consent to an act with one person does not constitute consent to an act with any other person.
- If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.
- If a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of sexual assault.
- The existence of a prior or current relationship does not, in itself, constitute consent; even in the context of a relationship, there must be mutual consent for particular sexual acts.
- Consent can be withdrawn or modified at any time, and sexual contact must cease reasonably immediately once consent is withdrawn.

⁴ The definition of consent in the District of Columbia is words or overt actions indicating a freely given agreement to the sexual act or contact in question. Lack of verbal or physical resistance or submission by the victim, resulting from the use of force, threats, or coercion by the defendant shall not constitute consent, which is applicable to criminal prosecutions for sex offenses in the District of Columbia but may differ from the definition used by the University to address policy violations. Accessible at: [https://code.dccouncil.gov/us/dc/council/code/sections/22-3001#:~:text=\(4\)%20%E2%80%9CConsent%E2%80%9D%20means.defendant%20shall%20not%20constitute%20consent..](https://code.dccouncil.gov/us/dc/council/code/sections/22-3001#:~:text=(4)%20%E2%80%9CConsent%E2%80%9D%20means.defendant%20shall%20not%20constitute%20consent..)

- Consent cannot be inferred from silence, passivity, or lack of resistance, and relying on nonverbal communication alone may result in a violation of this Policy.
- Consent cannot be given by an individual under the legal age of consent.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault.⁵

4. **Incapacitation:** Incapacitation is the inability, temporarily or permanently, to give consent because the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if they cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction).

Alcohol and other drugs impact each individual differently and determining whether an individual is incapacitated requires an individualized assessment based on the available information.

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, being blacked out, and/or being drunk. Individuals should look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. A person’s level of incapacitation is not always demonstrated by objective signs. However, some signs of incapacitation may include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility.

In evaluating consent in cases of reported incapacitation, the University first determines if the evidence supports a finding of incapacity, and then, if so, asks two additional questions: (1) Did the Respondent know that the Complainant was incapacitated? and, if not, (2) Should the Respondent have known that the Complainant was incapacitated (e.g., would a reasonable person in a similar set of circumstances as the Respondent have known that the Complainant was incapacitated) If the answer to either of these questions is “yes”, the Policy is violated.

A Respondent’s intoxication is never an excuse for, or a defense to, Prohibited Conduct, and it does not diminish the responsibility to obtain consent.

VIII. UNIVERSITY PROHIBITION ON CONSENSUAL RELATIONSHIPS BETWEEN EMPLOYEES AND STUDENTS

A. Student/Employee Relationships

Sexual or romantic relationships, including dating, between students and faculty, staff, or any other type of University employee are strictly prohibited under this Policy, regardless of whether such a relationship may violate the law. This is an additional form of Prohibited Conduct under this

⁵ Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual.

Policy. Therefore, violations of this prohibition by a faculty member, staff member, or any other type of University employee and a student may lead to disciplinary action against the employee and the processes for investigating and adjudicating this prohibited conduct are encompassed below. This prohibition includes attempts to engage in prohibited consensual relationships, regardless of whether such attempts culminate in a relationship, but does not include relationships that existed prior to the employee and student becoming members of the Howard community. When a student/employee relationship existed prior to adoption of this Policy or prior to employment, the employee has a duty to notify The Title IX Coordinator, TitleIX@howard.edu.

This section does not prohibit consensual relationships between full-time students at the University who are employed as student-employees or working in another position that is available only to University students, and other University students, provided that the student employee/worker does not have any form of supervisory responsibilities for the student, the student does not reside in the building or other housing unit which the student-employee/worker supervises or manages, and/or the student is not enrolled in a class that the student-employee/worker is teaching.

B. Employee/Employee Relationships

This section prohibits romantic or sexual relationships between employees in unequal positions, such as supervisor-employee. These relationships may be less consensual than perceived by the employee whose position confers power or authority. Similarly, each of the employees may view the relationship differently, particularly in retrospect. Circumstances may change, and once welcomed conduct may become unwelcome at some point in the relationship.

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

The Title IX Coordinator will determine whether to refer violations of this provision to Human Resources for resolution, or to pursue resolution under this Policy, based on the circumstances of the allegation.

IX. CONFIDENTIALITY, PRIVACY, AND REPORTING BY EMPLOYEES

The University makes every effort to preserve the Parties' privacy. The University will not share the identity of any individual who has made a Complaint of Prohibited Conduct; any Complainant; any individual who has been reported to be the perpetrator of Prohibited Conduct; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as

required by law; including any investigation, or resolution proceeding arising under this Policy and procedures.^{6,7}

- A. Unauthorized Disclosure of Information:** Parties and Advisors are prohibited from disclosing information obtained by the University through the Resolution Process, to the extent that information is the work product of the University (meaning it has been produced, compiled, or written by the University for purposes of its investigation and resolution of a Complaint), without authorization. It is also a violation of University Policy to publicly disclose institutional work product that contains a party or witness's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.
- B. Confidentiality:** Refers to the protections provided to information disclosed in legally protected or privileged relationships under District law, including but not limited to licensed mental health professionals, licensed medical professionals, and ordained clergy. Confidential resources can engage in confidential communications under the law when the information is disclosed within the scope of the provision of professional services. When an individual shares information with a confidential resource as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission, or unless required by ethical or legal obligations which compel the professional to reveal such information. For example, information may be disclosed when the individual gives written consent for its disclosure, there is an imminent concern that the individual will likely cause serious physical harm to self or others or poses a threat to the campus community as a whole, or the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18.
- C. Reporting by Employees:** It is important to understand the different responsibilities of University employees. Every employee is designated as either a Confidential Employee or a Responsible Employee:
- 1. Confidential Employee:** These employees will not disclose information about Prohibited Conduct without the individual's permission or as set forth in the Confidentiality section above. When individuals who otherwise may be Confidential Employees receive information outside of the provision of confidential services, the Confidential Employee is required to share that information with the Title IX Office. Confidential employees include:
 - An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this provision, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies. These employees include any employee who is a licensed medical, clinical, or mental-health professional (*e.g.*, physicians, nurses, physician's assistants, psychologists, psychiatrists, professional counselors, and social workers, and those performing services under their supervision). These employees also include clergy and other religious or spiritual advisors when serving in their religious or spiritual capacity and any employee providing

⁶ 20 U.S.C. 1232g

⁷ 34 C.F.R. § 99

administrative, operational, and/or related support to such clergy or other religious or spiritual providers; or

- An employee whom the University has designated as confidential under this Policy for the purpose of providing services to persons related to Prohibited Conduct. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about Prohibited Conduct in connection with providing those services. The University has designated the staff of the Interpersonal Violence Prevention Program (IVPP) as confidential employees, when IVPP staff are providing individualized advocacy services to students, per the request of those students.
- An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Prohibited Conduct. The employee's confidential status only applies with respect to information received while conducting the study.

2. **Responsible Employee:** With the exception of University employees designated as Confidential Employees when acting in that professional role within the scope of their employment, every individual employed by Howard University and Howard University Hospital, and anyone employed or retained under contract in a security or safety position or in a University residence hall is considered to be a Responsible Employee.

Student-workers who have supervisory responsibility or responsibility for the welfare of other students are also considered Responsible Employees when they learn of potential violations of this Policy in the scope of their employment. Student workers who are Responsible Employees include but are not limited to resident assistants, teaching assistants, graduate assistants, and tutors provided through any University programs or offices.

ALL Responsible Employees are required to report any information regarding a known or suspected violation of this Policy to include all forms of sex discrimination to the Title IX Office as soon as the Responsible Employee learns of it, no matter how they learn of this information. Responsible Employees must report all information that they have obtained, including the identities of the parties, the date, time and location, and any details about the reported incident to the Title IX Office. Responsible Employees cannot promise confidentiality or withhold information about Prohibited Conduct.

ALL Responsible Employees are required to provide the Title IX Coordinator's contact information to any pregnant individual as soon as the Responsible Employee learns of the pregnancy.

Failure of a Responsible Employee, as described above in this section, to report an incident of Prohibited Conduct of which they become aware is a violation of University Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Responsible Employee. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

A Responsible Employee who is themselves a target of Prohibited Conduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

D. Clery Act Reporting: Pursuant to the Clery Act, the University includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally-identifying information about individuals involved in an incident. The Clery Act also requires the University to issue timely warnings to the University community about certain crimes that have been reported and which may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, the University withholds the names and other personally identifying information of Complainants when issuing timely warnings to the University community.

Confidential resources submit non-personally identifying information to the Howard University Department of Public Safety for purpose of satisfying the University's legal responsibilities under the Clery Act.

X. RESOURCES, REPORTING OPTIONS, PRESERVATION OF EVIDENCE, AND AMNESTY

All University community members are urged to promptly report information regarding Prohibited Conduct to the University and/or law enforcement. A Complainant or witness will not be reprimanded, retaliated against, or discriminated against in any way for initiating an inquiry or making a good faith report.

A Complainant or witness has many options, including seeking counseling or assistance from a Confidential Employee, making a report under this Policy, and/or making a report to law enforcement. The University recognizes that deciding among these options can be difficult and is an intensely personal decision. Complainants and witnesses are encouraged to seek assistance from a Confidential Employee and to explore all potential reporting and support options.

A. Emergency Resources and Law Enforcement

Emergency medical assistance and campus safety/law enforcement assistance are available both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense.

1. Law Enforcement Assistance

University community members are encouraged to immediately contact the Howard University Department of Public Safety (DPS) and/or the Metropolitan Police Department in order to report potential criminal conduct to law enforcement. However, a Complainant has the right to report, or decline to report, potential criminal conduct to law enforcement. Upon request, the University will assist a Complainant in contacting law enforcement at any time. Under limited circumstances posing a threat to health or safety of any University community member, the University may independently notify law enforcement.

The Howard University Department of Public Safety may be reached at:

Department of Public Safety
2244 10th Street, N.W., Suite 270
Washington, D.C. 20059
Phone: (202) 806-1100

The District of Columbia Metropolitan Police Department may be reached at:

Metropolitan Police Department
1620 V Street, N.W.
Washington, D.C. 20009
Emergency Dispatch: Call "911"
Third District Main Phone: (202) 673-6815; or
Detectives' Office Phone: (202) 673-6918

Note that any law enforcement investigation is separate from, and independent of, the University's administrative investigation under this Policy. The University's administrative investigation may proceed simultaneously with any law enforcement investigation, whether by the University's Department of Public Safety or the Metropolitan Police Department, at the discretion of the University.

2. Medical Services

Medical treatment and services are available at:

Howard University Hospital
2041 Georgia Avenue, N.W.
Washington, D.C. 20060
Phone: (202) 865-6100

Sexual Assault Nurses Examinations (SANE Exams) (commonly referred to as rape kits), are available at:

Washington Hospital Center
110 Irving St. N.W.
Washington, D.C. 20010
Phone: (202) 877-3333

Nurse Examiners can be dispatched to other hospitals, upon request. Students can also receive medical services at:

Howard University Student Health Center
2139 Georgia Avenue, N.W.
Washington, D.C. 20059
Phone: (202) 806-7540

B. Crisis Counseling and other Support Services

Students can access confidential crisis counseling and mental health services at:

University Counseling Services

2401 Fourth Street, NW
Washington, D.C. 20059
Phone: (202) 806-6870
Crisis Line: 202-345-6709

Confidential support services on campus are also available through:

The Howard University Interpersonal Violence Prevention Program

2401 Fourth Street, NW
Washington, D.C. 20059
Phone: (202) 806-5113
Advocate Specialist (24/7): (202) 836-1401

Note that these counseling and support resources are available regardless of whether an individual makes a report to the Title IX Office or law enforcement, or otherwise participates in an investigation. These resources are available to Complainants, Respondents, and any other individual to provide ongoing support.

C. Campus Confidential Resources

As described above, University community members may speak with a Confidential Employee for support and assistance. This does not constitute a report to the University but will enable a student or employee to access support services on campus.

Campus Confidential Resources include:

- Howard University Student Health Center
- University Counseling Services
- Howard University Interpersonal Violence Prevention Program
- Chapel
- Employee Assistance Program

D. Other Campus Support Services

The following University departments are available to offer support and resources. These departments can provide information and resources, but consistent with their designation as Responsible Employees, will share any reports of Prohibited Conduct with the Title IX Office:

- Office of Human Resources
- Office of Student Services
- Office of Residence Life
- Division of Student Affairs

E. Reporting Options

The University encourages all individuals to report Prohibited Conduct or a potential violation of this Policy to the Title IX Office, the Howard University Department of Public Safety, and/or to local law enforcement. An individual may make a report to the University, to law enforcement, to neither, or to both. Campus administrative processes and law enforcement investigations operate independently of one another, although the University may coordinate information with the Howard University Department of Public Safety and/or local law enforcement when both an administrative proceeding and criminal investigation are on-going.

Anyone may use the following options to make a report:

- Make a report to the Title IX Office in person, by mail, by telephone, or by electronic mail: Administration Building, 2400 6th Street, N.W., Suite G06 Washington, D.C. 20059; Phone: (202) 806-2550; Email: TitleIX@howard.edu
- Contact law enforcement:
 - If on-campus, contact the Howard University Department of Public Safety or Metropolitan Police Department for assistance in filing a criminal complaint and preserving physical evidence; or
 - If off-campus, contact local law enforcement to file a criminal complaint.
- Make a report to a Responsible Employee: As explained above, all University employees, with the exception of those designated as Confidential Employees, are Responsible Employees. Reports made to a Responsible Employee are not confidential and must be promptly submitted to the Title IX Coordinator by the Responsible Employee.

Reporting carries no obligation to initiate a Complaint, and in most situations, the University is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where the University may need to initiate a Resolution Process. If a Complainant does not wish to file a Complaint, the University will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows the University to discuss and/or provide supportive measures, in most circumstances.

F. Preservation of Evidence

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

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.

- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement).
- Seeking medical treatment can be essential, even if it is not for the purpose of collecting forensic evidence.

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

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

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

G. Timeframe for Reporting

There is no time limit for reporting Prohibited Conduct so long as the underlying alleged conduct occurred when the individual was accessing/attempting to access programs or activities of the University. University community members are urged to make a report as soon as possible after the conduct has occurred to maximize the University's ability to respond promptly and effectively. Reports under this Policy may be made at any time without regard to how much time has elapsed since the incident(s) in question.

If the Respondent is no longer a student or employee at the time of the report, the University may be limited in its ability to take disciplinary action against the Respondent. The University will still provide support for the Complainant, including supportive measures as appropriate, and take steps to end the prohibited behavior, prevent its recurrence, and address its effects.

H. University Amnesty Policy

The University recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because drinking and drug use may be a violation of the Student of Code of Conduct and/or local law. In order to encourage reporting and remove barriers to doing so, any individual who reports Prohibited Conduct under this Policy, either as a student Complainant or witness, will not be subject to disciplinary action by the University for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health, safety or well-being of any other person at risk. The University may, however, advise a student to engage in an educational discussion

regarding the dangers of alcohol consumption or drug use or to pursue other educational and counseling activities regarding such use. Amnesty may also be granted to student Respondents on a case-by-case basis.

The University may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to employee Respondents and employee witnesses on a case-by-case basis.

XI. INCLUSION RELATED TO GENDER IDENTITY/EXPRESSION

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

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

In upholding the principles of equity and inclusion, the University supports the full integration and healthy development of those who are gender diverse and seeks to eliminate any stigma related to gender identity and expression.

The University is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. The University will administratively address issues that some students and employees, including those identifying as intersex, transgender, agender, nonbinary, and gender diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do the University's processes and policies.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to the University's goal of being as welcoming and inclusive a community as possible.

Misgendering or mispronouncing is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with a simple apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be and may constitute a Policy violation if the effect is greater than *de minimis* harm. We each have a right to determine our own gender identity and expression, but we don't get to choose or negate someone else's.

Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender diverse. Deadnaming means using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

To a person who is transgender, transitioning, nonbinary, or gender diverse, their cisgender identity may be something that is in their past — dead, buried, and behind them. To then revive their deadname could trigger issues, traumas, and experiences of the past that the individual has moved past, or is moving past, and can interfere with their health and well-being.

Again, unintentional deadnaming can often be addressed by a simple apology and an effort to use the person's chosen name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

This Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, transgender, transitioning, agender, nonbinary, and gender-diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with law.
- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms.
- Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities.
- Providing professional development for employees and education for students on topics related to gender inclusion.
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the University community.

The University uses a number of interventions to address concerns that are raised related to gender-based harassment or discrimination, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the right of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, the University will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, the University will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

XII. UNIVERSITY ACTION UPON RECEIPT OF A REPORT OR COMPLAINT

The University is committed to providing a prompt, thorough, equitable, and impartial resolution of all reported violations of this Policy. The University will use one of two available processes ("Resolution Process") to resolve Complaints of Prohibited Conduct under this Policy: the Formal Resolution Process, which involves an investigation, adjudication, and, if appropriate, the imposition of sanctions, and the Informal Resolution Process, which includes informal or restorative options for resolving Complaints or reports of Prohibited Conduct prior to a Final Determination in the Formal Resolution Process. The Title IX Coordinator will determine the appropriate Resolution Process after making an initial evaluation of the reported information, considering the stated preference of the Complainant regarding process, campus safety, and the University's obligation to maintain an environment free from Prohibited Conduct.

The initial response by the Title IX Office will include an initial evaluation of the context and circumstances of the report or Complaint, and identification of reasonably available and appropriate supportive measures for a Complainant and a Respondent.

A. Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged Prohibited Conduct. Supportive measures are non-disciplinary, non-

punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to the University's education program or activity, including measures designed to protect the safety of all Parties and/or the University's educational environment and/or to deter Prohibited Conduct.

The Title IX Coordinator promptly makes supportive measures available to the Parties upon receiving Notice/Knowledge or a Report or Complaint. At the time that supportive measures are offered, if a Complaint has not been filed, the University will inform the Complainant, in writing, that they may file a Complaint with the University either at that time or in the future. The Title IX Coordinator will work with a Party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

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

At the time that supportive measures are offered to the Complainant, the Title IX Coordinator will inform the Complainant that they may file a Complaint either at that time or in the future, if they have not already done so. The Title IX Coordinator will consider the Complainant's wishes with respect to supportive measures.

The University may provide reasonable supportive measures to third parties as appropriate and available.

Supportive measures may include, but are not limited to:

- Access to counseling, medical and/or other healthcare services.
- Referral to the Employee Assistance Program.
- Assistance in obtaining a sexual assault forensic examination.
- Assistance in arranging rescheduling of exams and assignments and extensions of deadlines.
- Academic support.
- Assistance in requesting long-term academic accommodations through the Office of Student Services or Human Resources, if the party qualifies as an individual with a disability.
- Change in the party's class schedule, including the ability to transfer course sections or withdraw from a course without penalty.
- Change in the party's University work schedule or job assignment.
- Administrative leave.
- Change in the party's campus housing.
- Assistance navigating off campus housing concerns.
- Safety planning.
- Imposition of a "no contact order," an administrative remedy designed to curtail contact and communications between two or more individuals.

- Voluntary leave of absence.
- Referral to resources which can assist in obtaining a protective order, or other legal remedy, under District of Columbia, Maryland, Virginia, or other applicable state or local law.
- Referral to resources which can assist with any financial aid, visa, immigration, or other administrative concerns
- Any other actions deemed appropriate by the Title IX Coordinator that can be used to achieve the goals of this Policy.

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

The Parties are provided with a timely opportunity to seek modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. The University will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. The University typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted Party(ies) and the Title IX Coordinator.

B. Emergency Removal

The University may emergency remove a student accused of Prohibited Conduct upon receipt of Notice/Knowledge, a Complaint, or at any time during the Resolution Process. Prior to an emergency removal, the University will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies such action.

When an emergency removal is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within three (3) business days of the notification. Upon receipt of a challenge, the Provost or designee will meet with the student (and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor

may be permitted to participate in this meeting if the Provost determines it is equitable for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Provost for review.

An emergency removal may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Provost will communicate the final decision in writing, typically within three (3) business days of the review meeting.

C. Placing an Employee on Leave

When the Respondent is an employee, or a student employee accused of misconduct in the course of their employment, existing provisions for interim action are typically applicable instead of the above emergency removal process. The Title IX Coordinator may determine that immediate action is warranted and if leave is to be with or without pay.

D. Initial Evaluation

After receiving a report of Prohibited Conduct, the Title IX Office will contact the Complainant to gather information about the reported conduct and respond to any immediate health or safety concerns raised by the report. The Title IX Office will assess the Complainant's safety and well-being, offer supportive measures, and assess the nature and circumstances of the report to determine whether the reported conduct raises a potential policy violation, whether the reported conduct is within the scope of this Policy, and the appropriate method of resolution under this Policy. The Title IX Coordinator may consult with the University's Behavior Intervention Team or other University administrators as part of the initial evaluation, as needed.

1. Overview

As part of the initial evaluation, the Title IX Office may:

- Assess whether the reported conduct may reasonably constitute a violation of the Policy.
 - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Refer the matter to another office such as Human Resources or Student Conduct.
- Determine whether the University has jurisdiction over the reported conduct, as defined in the Policy.
 - If the conduct is not within University jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate University office for resolution.
- Offer and coordinate supportive measures for the Complainant.
- Offer and coordinate supportive measures for the Respondent, as applicable.
- Notify the Complainant, or the person who reported the allegation(s), of the available

resolution options, including a supportive and remedial response, an Informal Resolution option, or the Formal Resolution Process described below.

- Determine whether the Complainant wishes to initiate a Complaint.
- Notify the Respondent of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Formal Resolution Process described below, if a Complaint is made.

2. Helping a Complainant Understand Resolution Options

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), the Title IX Coordinator will help to facilitate the Complaint, which will include working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:

- a supportive and remedial response, and/or
- Informal Resolution, or
- the Formal Resolution Process described below.

The Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects for the Formal Resolution Process below, and the Title IX Coordinator has determined the Policy applies and that the University has jurisdiction, they will route the matter to the appropriate Title IX Official, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Title IX Coordinator will assess whether the matter is suitable for Informal Resolution and refer the matter accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

3. Title IX Coordinator Authority to Initiate a Complaint

If the Complainant does not wish to file a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures and determine whether to initiate a Complaint themselves. To make this determination, the Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if the University cannot ensure equal access without initiating a Complaint. The Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to initiate a Complaint.
- The Complainant's reasonable safety concerns regarding initiating a Complaint.

- The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated.
- The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Prohibited Conduct and prevent its recurrence.
- The age and relationship of the Parties, including whether the Respondent is a University employee.
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals.
- The availability of evidence to assist a Decision-maker in determining whether Prohibited Conduct occurred.
- Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Title IX Coordinator may consult with appropriate University employees, and/or conduct a violence risk assessment to aid their determination whether to initiate a Complaint.

When the Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

4. Counter-Complaints

The University is obligated to ensure that the Resolution Process is not abused for retaliatory purposes. Although the University permits the filing of counter-complaints, the Title IX Coordinator will use an initial evaluation, described above, to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-complaints determined to have been reported in good faith will be processed using the Resolution Process below. At the Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

5. Collateral Misconduct

The procedures below may be used to address alleged collateral misconduct by the Respondent arising from the investigation of or occurring in conjunction with reported misconduct (*e.g.*, vandalism, physical abuse of another), when alleged violations of the Policy are being addressed at the same time. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Title IX Coordinator may consult with University officials who typically oversee such conduct (*e.g.*, Human Resources, Student Conduct, Academic Affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these

procedures is within the discretion of Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

6. Dismissal of Complaints of Prohibited Conduct

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

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

In addition to other members of the Title IX Office, as authorized by the Title IX Coordinator, a Decision-maker can recommend dismissal to the Title IX Coordinator if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, the University will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the University will also notify the Respondent of the dismissal. This dismissal decision is appealable by any party.

a. Appeal of Complaint Dismissal

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

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

Throughout the dismissal appeal process, the University will:

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

The grounds for dismissal appeals are limited to:

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

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Title IX Coordinator will share the petition with all other Parties and provide three (3) business days for other Parties and the Title IX Coordinator to respond to the request. At the conclusion of the response period, the Title IX Coordinator will forward the appeal, as well as any response provided by the other Parties and/or the Title IX Coordinator to the Dismissal Appeal Officer for consideration.

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

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

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (10) business days to review and decide on the appeal, though extensions can be granted at the Title IX Coordinator's discretion, and the Parties will be notified of any extension.

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

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

E. Right to an Advisor

Throughout the Resolution Process, all Parties have the right to be accompanied to any meeting, interview, or hearing by an Advisor of their choosing. The Advisor may be any person, including an attorney, as long as the Advisor is eligible and available.⁸

The Parties may be accompanied by their chosen Advisor at any meeting or proceeding related to a Resolution Process under this Policy. While the Advisor may provide support and advice to the Parties at any meeting during the Resolution Process, they may not speak on behalf of any Party; ask or answer any questions on behalf of any party; or otherwise participate in, or in any manner delay, disrupt, or interfere with the Resolution Process.

Generally, the Title IX Coordinator and Investigator(s) will communicate directly with the Complainant or Respondent. For an Advisor to be copied on correspondence from the Title IX Office, student parties and their Advisors must execute a FERPA waiver. Advisors should plan to make themselves reasonably available and the University will not unduly delay the scheduling of meetings or proceedings based on the Advisor's unavailability. An Advisor may be asked to meet with a University administrator in advance of any proceedings to understand the expectations of the role, privacy considerations, and appropriate decorum.

Any Advisor who does not stay within their defined role will receive a warning that they must abide by the parameters that have been established. Violations of their role as defined by this Policy will be subject to one warning only. If the Advisor fails to abide by the parameters of their role, any meeting or proceeding in progress will be ended or the Advisor will be excused. The Title IX Coordinator has the discretion to determine whether that Advisor will be permitted to continue in their role for that specific matter, or to serve as an Advisor in the future.

The University fully respects and accords the Weingarten rights of employees, meaning that for Parties who are entitled to union representation, the University will allow the unionized employee to have their union representative (if requested by the Party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other Party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are not permitted to have union representation or Advisors in Resolution Process interviews or meetings.

F. Safeguarding Privacy

Individuals involved in a Resolution Process under this Policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, Complainants and Respondents are not restricted from discussing and sharing information with others who may support or assist them during the process. However, doing so in violation of the Unauthorized Disclosure of Information provision of this Policy or with the intent to harass another individual,

⁸ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. The Advisor cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker(s).

retaliate against another individual who is involved in the investigation, or to influence the outcome of the investigation, will subject an individual to sanctions under this Policy.

Advisors are expected to maintain the confidentiality of the records the University shares with them. Neither the parties nor the Advisors may disclose any University work product or evidence the University obtained solely through the resolution process for any purpose not explicitly authorized by the University.

Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). The University may decline to share materials with any Advisor who has not executed the NDA. The University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's confidentiality expectations.

XIII. INFORMAL RESOLUTION PROCESS

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a final determination, or the Title IX Coordinator may offer the option to the Parties, in writing. The University will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Where a Complaint has been filed, the University will provide the Parties with a NOIA before initiating the Informal Resolution process. The NOIA will include:

- The allegations.
- The requirements of the Informal Resolution process.
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the Informal Resolution process and to initiate or resume the University's Resolution Process.
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the Resolution Process arising from the same allegations.
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties.
- What information the University will maintain, and whether and how it could disclose such information for use in its Resolution Process.

The University offers four categories of Informal Resolution:

- 1) **Supportive Resolution.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) **Educational Conversation.** When the Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.

- 3) **Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and the University are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include but is not limited to, mediation and shuttle negotiation) as described below.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

It is not necessary to pursue Informal Resolution first in order to pursue an Formal Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Formal Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Resolution Process, should Informal Resolution not be successful, unless agreed to by all Parties.

If an investigation is already underway, the Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

A. Categories of Informal Resolution

1. Supportive Resolution

The Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to the University's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX Coordinator does not initiate a Complaint.

2. Educational Conversation

The Complainant(s) may request that the Title IX Coordinator address their allegations by meeting (with or without the Complainant) with the Respondent(s) to discuss concerning behavior and institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of the recurrence of any behaviors that may not align with Policy.

3. Accepted Responsibility⁹

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title IX Coordinator will determine whether all Parties and the University are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of University Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Formal Resolution Process will either continue or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the Prohibited Conduct, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

4. Alternative Resolution

The University offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title IX Coordinator or other appropriate University officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Title IX Coordinator may consider the following factors to assess whether alternative resolution is appropriate, or which form of alternative resolution may be most successful for the Parties:

⁹In Section XV.A.4 below, there is a description of a process to waive the adjudication step of the Formal Resolution Process if a Respondent decides to admit to violating the charged Policies. That section and this one are similar, but there are meaningful differences. In this section, the Parties must agree to the resolution, and the Respondent in essence self-sanctions as part of the Informal Resolution Process by agreeing to voluntarily comply with whatever the terms are to which the Parties agree. XV.A.4, in contrast, is unilateral. Neither the Complainant nor the Title IX Coordinator determine eligibility. It is simply a waiver of steps in the process by the Respondent, who can admit violations and accept sanctions assigned by the Decision-maker, if they so choose. No Complainant approval is sought or needed. Under XV.A.4, the outcome involves sanctioning imposed by the University, rather than an agreement to self-sanction, as outlined in this section.

- The Parties' amenability to alternative resolution.
- Likelihood of potential resolution, considering any power dynamics between the Parties.
- The nature and severity of the alleged misconduct.
- The Parties' motivation to participate.
- Civility of the Parties.
- Results of a violence risk assessment/ongoing risk analysis.
- Respondent's disciplinary history.
- Whether an emergency removal or other interim action is needed.
- Skill of the alternative resolution facilitator with this type of Complaint.
- Complaint complexity.
- Emotional investment/capability of the Parties.
- Rationality of the Parties.
- Goals of the Parties.
- Adequate resources to invest in alternative resolution (*e.g.*, time, staff).

The Title IX Coordinator has the authority to determine whether alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (*e.g.*, dissolution of the agreement and resumption of the Formal Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). The results of Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, the University will initiate or continue an investigation and subsequent Formal Resolution Process to determine whether the Policy has been violated.

XIV. GENERAL INFORMATION REGARDING FORMAL RESOLUTION PROCESS

A. Formal Resolution Process Timeline

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

Investigations are completed expeditiously, normally within sixty (90) business days, though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

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

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

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

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

B. Rights and Expectations of the Parties

The University affords both Complainants and Respondents an equal opportunity to participate fully in the investigation and adjudication process, including the opportunity to receive a written notice of investigation; to participate in the investigation; to review and present information and evidence; to be accompanied by an Advisor of their choice to any meeting; to timely and equal access to information that will be used in the resolution proceedings; to timely notice of meetings at which their presence will be requested or required; to simultaneous written notice of the outcome, sanction, and rationale; and to seek appeal of the finding as outlined in Section XV.

All University community members are expected to provide truthful information in any report or proceeding under this Policy. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated or no policy violation is found to have occurred.

Howard University encourages all members of the University community to cooperate fully with the procedures delineated in this Policy. It is understood that there may be circumstances in which a Party or witness may wish to limit their participation, and the University will respect their choice as to how they would like to engage in proceedings under this Policy. The University may, however, move forward with an investigation, adjudication, and possible disciplinary action

without the participation of one or more Parties or witnesses. Should the Respondent opt not to participate, that refusal will not automatically preclude the continuation of the investigation process and a resolution of the investigation, including possible sanctions against the Respondent if a violation of this Policy is found by a preponderance of the evidence.

If a Party chooses not to answer any or all questions posed during an investigation or adjudication for any reason, the University may continue its process; and the University may issue any discipline or sanctions, as appropriate. The University will not draw any adverse inference from a Complainant's or Respondent's decision not to participate in the investigation or any form of resolution under this Policy. However, the Complainant and Respondent should be aware that declining to participate in the Formal Resolution Process may impact the timing and outcome of the investigation and adjudication.

XV. FORMAL RESOLUTION PROCESS

The Formal Resolution Process involves an objective evaluation of all relevant evidence obtained. Credibility determinations will not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

In determining whether alleged conduct constitutes Prohibited Conduct under this Policy, the University will look at the entire relevant record as a whole and consider the totality of the circumstances. This inquiry will examine information such as the nature of the conduct and the context in which the alleged incidents occurred. This determination takes place through the Formal Resolution Process which includes an investigation, adjudication, and implementation of sanctions, if applicable.

All determinations regarding whether a Respondent has engaged in Prohibited Conduct will be based upon a thorough, objective, and comprehensive review of the facts, and made on a case-by-case basis using the preponderance of the evidence standard.

The Title IX Coordinator has the sole discretion to consolidate multiple reports or multiple Complaints 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 arise out of the same facts or circumstances, or it otherwise makes sense to consolidate.

A. Investigation

1. Investigator

When the University receives a report alleging a violation of this Policy, the Title IX Coordinator will appoint one or more Investigators to conduct a prompt, thorough, fair, and impartial investigation. The Investigator(s) may be a University employee and/or an experienced external investigator and the University has the authority and the sole discretion in determining when to assign an internal and/or external investigator. The Investigator(s) will be impartial and free from conflict of interest or bias.

2. Notice of Investigation and Allegations (NOIA)

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

The NOIA typically includes:

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

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

Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

3. Presumption of Non-Responsibility

It shall be presumed that there has been no violation of any University policy by a Respondent unless and until a thorough and comprehensive investigation has been conducted and there is a Final Determination, by a preponderance of the evidence, at the conclusion of the process.

4. Respondent Admits Responsibility

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

5. Evidentiary Considerations

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

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

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

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

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

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

6. Cooperation with Law Enforcement

If there is a criminal investigation or other legal proceeding, the University may be obligated to provide investigative records to law enforcement or a court in response to a subpoena, search warrant, or court order.

The University may undertake a short delay in its investigation (several days to a few weeks) if law enforcement requests the University to temporarily delay the investigation. University action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

7. Interview Recording

It is standard practice for Investigators to create record of all interviews pertaining to the Formal Resolution Process. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording.

8. Investigation

During an investigation, the Investigator(s) will seek to meet separately with the Complainant, Respondent, and relevant witnesses. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the alleged conduct or related matters. Witnesses may not participate solely to speak about an individual's character. The Investigator(s) will also gather other relevant information or evidence, including documents, photographs, communications between the Parties, and other records as appropriate.

When the participation of a Party is expected, the Investigator(s) will provide that Party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose. The Investigator(s) will also make good faith efforts to notify each Party of any meeting or interview involving another Party, in advance when possible.

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

The Investigator(s), not the Parties, is responsible for gathering relevant evidence to the extent reasonably possible. Both the Complainant and Respondent are encouraged, however, to submit any information they believe may be relevant, and both the Complainant and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, photographs, and other evidence. Parties are encouraged to

provide all relevant information as promptly as possible to facilitate prompt resolution. All available information and supporting documents and evidence must be identified and/or submitted prior to issuance of the Final Report of Investigation. In the event that a Party declines to provide material information, the University's ability to conduct a prompt, thorough, and equitable investigation may be impacted.

The Investigator(s) may also consider information publicly available from social media or other online sources that comes to the attention of the Investigator(s). The Investigator(s) does not actively monitor social media or online sources, however, and as with all potentially relevant information, the Complainant, Respondent, or witnesses should bring relevant online information to the attention of the Investigator(s).

Similarly, the Parties should bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the Investigator(s). The Investigator(s) may consider such information in the investigation and will also share any information about retaliation or other alleged misconduct with the Title IX Coordinator for appropriate action.

When appropriate, the Investigator(s) may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the Investigator(s) may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. In general, a person's medical and counseling records are confidential and not accessible to the Investigator(s) unless the person voluntarily chooses to share those records with the Investigator(s). Before disclosing such information, the Party should keep in mind that the relevant information from the records must be shared with the other Party for that information to be considered in the investigation.

The Investigator(s) will review all relevant and not otherwise impermissible information identified or provided by the Parties during the investigation.

9. Review of Preliminary Report of Investigation

At the conclusion of the fact-gathering portion of the investigation, the Investigator(s) will prepare a Preliminary Report of Investigation. The Investigator(s) will share the Preliminary Report of Investigation with the Title IX Coordinator and/or legal counsel for their review and feedback. The Preliminary Report of Investigation will provide the Parties equal and timely access to the relevant and not otherwise impermissible evidence that has been obtained as part of the investigation. This includes making available any documents that were gathered by the University. The Preliminary Report of Investigation will not state a preliminary finding as to whether or not a violation has occurred or any information with regard to potential sanctions.

The Preliminary Report of Investigation and accompanying documents will be made available to each Party and the Party's Advisor, if any, in an electronic format. Each Party will have ten (10) business days to submit a written response, which the Investigator(s) will consider prior to completion of the Final Report of Investigation. Any additional information that was not previously provided by the Parties during the investigation should be provided with the written response. A Party may also request the opportunity to meet with the Investigator(s) to provide

additional verbal information; the Investigator(s) will determine whether such a meeting is necessary to ensure that all relevant evidence has been provided.

If either Party provides a written response or provides additional verbal information, the content will be shared with the other Party and incorporated as appropriate in the Final Report of Investigation. Any relevant information gathered through additional investigative steps will be shared with both Parties, and, as the University deems appropriate, the Parties may have the opportunity for further response if sufficient new information has been gathered. If additional review is granted, each Party will have five (5) business days to review any additional information and any further comment by the Parties will be limited to responding to the new information only. As necessary, the Investigator(s) will designate reasonably prompt timeframes to ensure a timely completion of the process while also providing an adequate opportunity for all Parties to respond thoroughly to the information gathered during the investigation.

B. Adjudication

1. Standard of Proof: Preponderance of the Evidence

Findings are made based on a preponderance of the evidence. A finding of responsibility based on a preponderance of evidence means that based on all relevant evidence and reasonable inferences from the evidence, the greater weight of information indicates that it is more likely than not the policy violation occurred. This standard of evidence is the same for complaints against students as for complaints against employees, including faculty, and for all University policy violations involving discrimination against another individual.

2. Adjudication of Complaints of Prohibited Conduct (Other Than Complaints of Sex-Based Harassment Involving a Student Complainant or Student Respondent)

a. Findings Provided in the Final Report of Investigation

The Investigator(s) will serve as the Decision-maker for all Complaints of Prohibited Conduct that do not involve allegations of Sex-based Harassment with a student Complainant or student Respondent. Prior to making the determination regarding responsibility, the Investigator(s) will question the Parties and witnesses to adequately assess a Party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of Prohibited Conduct. The Investigator(s) will:

- Review all relevant and not otherwise impermissible evidence and any Party responses to the Preliminary Report of Investigation and create a list of relevant and not otherwise impermissible questions to ask the Parties or any witnesses.
- Hold individual meetings with the Parties and witnesses to pose all relevant questions posed by the Investigator(s). These meetings will be recorded and transcribed.
- At the conclusion of questioning, incorporate relevant elements of the transcripts into a Final Report of Investigation. The Final Report of Investigation will include

a summary of the relevant and not otherwise impermissible evidence; a Final Determination as to whether there is sufficient information, by a preponderance of the evidence, to support a finding of responsibility for a violation of the Policy; the rationale for this finding; the sanctions and remedies to be imposed, if any; and notification of the available procedures to appeal the Final Determination and/or sanction.

- To determine sanctions, confer with the Director of the Office of Student Conduct and Community Standards regarding students; the Director of Employee Relations regarding staff and contractors; the Dean of the School/College and/or the Department Chair regarding faculty; or the Associate Vice President for Administration and Operations regarding hospital staff. When preparing the Final Report of Investigation, the Investigator(s) will confer with the Title IX Coordinator to ensure consistency in the application of this Policy, including the rendering of any sanctions and/or remedies.
- Simultaneously notify the Parties in writing of the Final Determination whether Prohibited Conduct occurred including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal.

3. Adjudication of Complaints of Sex-Based Harassment Involving a Student Complainant or Student Respondent

a. Final Report of Investigation for Complaints of Sex-Based Harassment Involving a Student Complainant or Student Respondent

The Final Report of Investigation for Complaints of Sex-based Harassment when a student is a Complainant or a Respondent will include a summary of the relevant and not otherwise impermissible evidence and will not include a recommended finding or sanctions. Adjudication will occur at a live hearing. The Final Report of Investigation will be provided to each Party and the Party's Advisor, if any, in an electronic format or a hard copy, at least seven (7) business days prior to the required live hearing, for their review and any written response they choose to provide in advance of or at the hearing.

b. Pre-Hearing Preparation

The Title IX Coordinator will select an appropriate Decision-maker or Decision-makers for a panel; these individuals may be from within the campus community or may be from outside the campus community and are neutral factfinders. The University has the sole discretion to determine whether a sole Decision-maker or panel of Decision-makers will be used, and whether the Decision-maker(s) will be individuals from the University community or external decision-makers. Decision-makers will have the requisite training. While the Title IX Coordinator has oversight and coordination responsibilities for the hearing and may serve as the hearing facilitator, the Title IX Coordinator will not serve as a Decision-maker. The Investigator(s) also will not be a Decision-maker. A single Decision-maker will Chair the Hearing. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator.

The Title IX Coordinator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once emailed and/or received in-person, notice will be presumptively delivered. The hearing notice includes: A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result; the time, date, and location of the hearing; a description of any technology that will be used to facilitate the hearing; relevant information regarding hearing logistics, pre-hearing meetings, the Final Report of Investigation, the Parties and witnesses participating in the hearing, the identity(ies) of the Decision-maker(s), details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance.

All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) business days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their actual or perceived bias or conflict of interest precludes an impartial hearing of the complaint.

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all Parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the Parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the period prior to the hearing, the Parties have the opportunity for continued review and comment on the Final Report of Investigation and available evidence. That review and comment can be shared with the Decision-maker(s) at a pre-hearing meeting or at the hearing and will be exchanged between each party by the Decision-maker.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), proffered a written statement, or answered written questions, unless all Parties and the Chair otherwise assent to the witness's participation in the hearing.

c. Advisors

The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that the University appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves.

d. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the Parties and/or their Advisors and invite them to submit the questions or topics they (the Parties and/or their Advisors) wish to ask or discuss at the hearing. This allows the Chair to consider their relevance ahead of

time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Parties from submitting a question at the hearing for the first time or asking for a reconsideration on a pre-hearing ruling by the Chair based on any new information or testimony offered at the hearing. The Chair will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each Party.

The Chair will work with the Parties to finalize a witness list for the hearing, and the Title IX Coordinator will notify any witnesses of the hearing's logistics. The Chair, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Report of Investigation or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each Party/Advisor, and can be done remotely, or as a written communication exchange. The Decision-maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

e. Impact/Mitigation Statements

Each Party may submit an impact and/or mitigation statement to the Title IX Coordinator that the Decision-maker(s) will review during any sanction determination. Upon receipt of an impact and/or mitigation statement, the Title IX Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist. The Title IX Coordinator will only provide the impact statements to the Decision-maker(s) if the Decision-maker(s) determines that the Policy has been violated. When the Title IX Coordinator shares the impact statements with the Decision-maker(s), they will also be shared with the Parties.

f. Witness Participation at the Hearing

Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are required to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the Decision-maker(s) and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an advisor. At the discretion of the Chair, a witness may join by phone if no other reasonable alternative is available.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

If any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing.

g. Hearing Procedures

1) Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completing the Final Report of Investigation. Evidence offered after that time will be evaluated by the Chair for relevance. If deemed relevant and not impermissible, the Parties and Chair must agree to admit it into the record. If the evidence is deemed not relevant or impermissible, the Chair may proceed with the hearing absent the new evidence. New relevant evidence will be admitted to the record if:

- All Parties and the Chair assent to the new evidence being included in the hearing without remanding the Complaint back to the Investigator(s), and
- The evidence is not duplicative of evidence already in the record, and
- It is not impermissible, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Report of Investigation, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Chair may, at their discretion, engage in any of the following actions:

- Delay the hearing.
- Provide the Parties with at least five (5) business days to review the relevant evidence.
- Remand the Complaint back to the Investigator(s) for further investigation or analysis.
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not relevant or impermissible, the Chair may proceed with the hearing without allowing the new evidence.

2) Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

3) Introductions and Hearing Procedures Explanation

The Chair will explain the hearing procedures and introduce the participants. The Chair will answer any procedural questions prior to and as they arise throughout the hearing.

4) Investigator Presentation of Final Report of Investigation

The Investigator(s) will present a summary of the Final Report of Investigation, including a review of the facts that are contested and those that are not. The Investigator(s) may be questioned first by the Chair and then by the Parties. The Investigator(s) may attend the duration of the hearing or be excused after their testimony at the Chair's discretion.

5) Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Chair. The Chair will facilitate questioning of the Parties and witnesses first by the Chair and then by the Parties through the Chair.

All questions must be directed toward and asked through the Chair and are subject to a relevance determination before they are asked. The Chair will determine the method by which the Parties will submit their questions to the Chair for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that Party themselves, another Party, or witnesses. 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 they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Chair has final say on all questions and determinations of relevance and appropriateness. The Chair may consult with legal counsel on any questions of admissibility.

The Chair then poses the questions deemed relevant, not impermissible, and appropriate to the Party and/or witness.

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

The Chair will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Chair and the Parties, and the witnesses will then be excused.

6) Refusal to Submit to Questioning and Inferences

Any Party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker(s) can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference **solely** from a Party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the Party being advised consents to that information being shared.

7) Hearing Recordings

The University records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker(s), the Parties, their Advisors, Appeal Decision-makers, and other appropriate University officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

h. Deliberation and Determination

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of proof. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

When there is a finding of responsibility for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate sanction(s). The Title IX Coordinator will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact/mitigation statements do not influence the finding, they only potentially influence the sanctions.

The Decision-maker will then prepare and provide the Title IX Coordinator with a written outcome letter detailing all findings and Final Determinations, the rationale(s) explaining the decision(s), the relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s).

This statement is typically submitted to the Title IX Coordinator within ten (10) business days from the conclusion of the hearing, unless the Title IX Coordinator grants an extension. The Title IX Coordinator will notify the Parties of any extension.

C. Final Determination

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.

D. Withdrawal or Resignation Before Complaint Resolution

1. Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from the University, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the University will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the Prohibited Conduct.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, the University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Prohibited Conduct.

When a student withdraws or leaves while the process is pending, the student may not return to the University in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Title IX Coordinator has discretion to dismiss the Complaint.

If the student Respondent takes a leave for a specified period of time (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to University unless and until all sanctions, if any, have been satisfied.

2. Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent leaves their employment with the University with unresolved allegations pending, the Resolution Process may continue, or the Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the University may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the Prohibited Conduct.

When an employee resigns and the Complaint is dismissed, the employee may not return to the University in any capacity. A note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the University. The records retained by the Title IX Coordinator will reflect that status.

E. Sanctions

Factors the Decision-maker(s) may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s).
- The Respondent's disciplinary history.
- The need for sanctions/responsive actions to bring an end to the Prohibited Conduct.
- The need for sanctions/responsive actions to prevent the future recurrence Prohibited Conduct.
- The need to remedy the effects of the Prohibited Conduct on the Complainant and the community.
- The impact on the Parties.
- The Respondent's acceptance of responsibility.
- Any other information deemed relevant by the Decision-maker(s).

The sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

1. Student Sanctions

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

- *Reprimand*
- *Required Counseling*
- *Restrictions*
- *Probation*
- *Suspension*
- *Expulsion*
- *Withholding Diploma*
- *Revocation of Degree*
- *Other Actions*: In addition to, or in place of, the above sanctions, the University may assign any other sanctions as deemed appropriate.

2. Student Organization Sanctions

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

- *Warning*
- *Probation*
- *Suspension*
- *Expulsion*
- *Loss of Privileges*
- *Other Actions*

3. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in Prohibited Conduct:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

XVI. APPEALS

A. Appeal of the Final Determination

The Provost or designee (“Appeal Decision-maker”) serves as the Decision-maker regarding all Final Determination appeals. The Title IX Coordinator may assign another trained internal or external individual to hear the appeal in instances where the Provost or designee has been previously involved in the Resolution Process for the Complaint, including any supportive measure challenge or dismissal appeal that may have been decided earlier in the process.

1. Appeal Grounds

Appeals are limited to the following grounds that must be clearly stated in the written appeal submission:

- 1) A procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
- 3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome.
- 4) The sanction levied against the Respondent is significantly disproportionate to the severity of the offense(s), and in consideration of the cumulative disciplinary record of the Respondent.

2. Request for Appeal

Any Party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the Request for Appeal meets the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker(s) will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

B. Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard of proof.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

C. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new determination with new individuals serving in the Investigator(s) and Decision-maker(s) roles.

A Notice of Appeal Outcome letter (“Appeal Outcome”) will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result which the University is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent the University is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the Parties’ local or permanent address indicated in official University records, or emailed to the Parties’ University-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case

of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the four (4) available appeal grounds.

D. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed (i.e., not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then the emergency removal procedures (detailed above) for a “show cause” meeting on the justification for doing so must be permitted within two (2) business days of implementation.

XVII. LONG TERM REMEDIES/OTHER ACTIONS

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the University community that are intended to stop the Prohibited Conduct, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

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

At the discretion of the Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator will address any remedies the University owes the Respondent to ensure no effective denial of educational access.

The University will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the University’s ability to provide these services.

XVIII. FAILURE TO COMPLY WITH SANCTIONS, RESPONSIVE ACTIONS, INFORMAL RESOLUTION TERMS

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker(s), including the Appeal Panel or Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or for any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University. Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees. A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

XIX. EXTERNAL REPORTING

Students and employee complaints regarding sex and gender-based discrimination and sexual misconduct may be filed with:

U.S. Department of Education Office for Civil Rights
District of Columbia Office
400 Maryland Avenue, S.W.
Washington, D.C. 20202-1475
Telephone: (202) 453-6020
FAX: (202) 453-6021
TDD (877) 521-2172

U.S. Department of Health and Human Services Office for Civil Rights
200 Independence Avenue, S.W. Room 509F HHH Bldg.
Washington, D.C. 20201
Email: OCRComplaint@hhs.gov

Employees may also file complaints with:

U.S. Equal Employment Opportunity Commission
131 M Street, NE Fourth Floor, Suite 4NWO2F
Washington, DC 20507-0100
Telephone: 1-800-669-4000
EEOC Public Portal: <https://publicportal.eeoc.gov>

XX. ACCOMMODATIONS AND SUPPORT

A. Disability Accommodations

The University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University's Resolution Process.

Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with the Office of Student Accessibility or Human Resources as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

B. Other Support

The University will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters.
- Access and training regarding use of technology throughout the Resolution Process.
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process.

XXI. TRAINING

A. Prevention and Awareness Programs

The University is committed to the prevention of Prohibited Conduct through regular and ongoing education and awareness programs. Incoming students and new employees receive primary prevention and awareness programming and returning students and current employees receive ongoing training and related programs. The University provides coordinated programming and training through multiple areas, including the Title IX Office, Division of Student Affairs, Howard University Department of Public Safety, Human Resources, the Provost's Office, Interpersonal Violence Prevention Program, University Counseling Services, the Student Health Center and other University departments.

B. Employee Training

All University employees will receive training related to their duties under Title IX and this Policy promptly upon hire or change of position that alters their duties under Title IX or this Policy, and annually thereafter. The training will not rely on sex stereotypes. Training will be provided as follows:

1. All University Employees

The University will ensure that all employees receiving training on the University's obligation to address Prohibited Conduct in its education program or activity; the scope of conduct that constitutes Prohibited Conduct, including the definition of Sex-based Harassment; and all applicable notification and information requirements under the Title IX regulations.

2. Investigators, Decision-maker, and Employees Responsible for Implementing the Resolution Process and Modifying or Terminating Supportive Measures

In addition to the responsibilities outlined in the preceding paragraph, the University will ensure that all Investigators, Decision-makers and other persons who are responsible for

implementing the University's Resolution Process or have the authority to modify or terminate supportive measures receive training on the University's obligations under the Title IX regulations; the University's Resolution Process; how to serve impartially, including by avoiding a prejudgment of the facts at issue, conflicts of interest, and bias; and the meaning and application of the term relevant in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX regulations.

3. Informal Resolution Facilitators

In addition to the training requirements for all University employees, Informal Resolution Facilitators will be trained on the rules and practices associated with the University's Informal Resolution Process and on how to serve impartially, including avoiding conflicts of interest and bias.

4. Title IX Coordinators and Designees

In addition to the training requirements outlined in Sections 1-3, the University will ensure that the Title IX Coordinator and any designees receive training on the University's recordkeeping system, and other training necessary to coordinate the University's compliance with Title IX.

Any materials used to train University employees on this Policy will be made available upon request for inspection by members of the public.

XXII. RECORDKEEPING

The University will maintain, for seven (7) years, records of:

- Each investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required, and any disciplinary sanctions imposed on the Respondent.
- Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the University's education program or activity.
- Any appeal and the result therefrom.
- Any informal resolution and the result therefrom.
- All materials used to provide training to the Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing the University's Resolution Process, or who has the authority to modify or terminate supportive measures. The University will make these training materials available for review upon request.
- All materials used to train all employees consistent with the requirements in the Title IX Regulations.

The University will also maintain any and all records in accordance with federal and state laws.

XXIII. REVISION OF THIS POLICY AND PROCEDURES

This Policy and procedures succeed previous policies addressing Prohibited Conduct for incidents occurring on or after August 1, 2024, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Title IX Coordinator will review and update this Policy and procedures regularly. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

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

This Policy and procedures are effective August 1, 2024.

XXIV. HYPERLINKS

[Policy Documents](https://secretary.howard.edu/policy-office) (https://secretary.howard.edu/policy-office)

[Howard University Title IX Office](https://howard.edu/title-ix) (https://howard.edu/title-ix)

[Title IX: U.S. Department of Education](https://www.ed.gov/category/keyword/title-ix) (https://www.ed.gov/category/keyword/title-ix)