

1. Introduction

Kaiser Permanente Bernard J. Tyson School of Medicine (“KPSOM,” “the school”) has designated procedures designed to provide prompt and equitable methods of investigation and resolution to reported violations of the Policy Prohibiting Sexual Misconduct, Sexual Harassment, Sex Discrimination, and Retaliation (“Policy”). When an alleged violation of this Policy is reported, the allegations are subject to resolution using the school’s Tier I or Tier II resolution process.

2. Applicability/Responsibility

The core purpose of these procedures is to respond to allegations of prohibited conduct and other prohibited behavior as those terms are defined under the Policy. In general, if some or all allegations in a complaint relate to Tier I conduct, then all allegations in the complaint are resolved using Tier I procedures (see Appendix A). All other complaints under the Policy are resolved through Tier II procedures (see Appendix B).

These procedures apply to all members of the school community, as outlined below. When the respondent or complainant is not a student or employee, a resolution process may still be available based on the factual circumstances.

3. Responsible Officer

The Title IX Coordinator has the primary responsibility for coordinating the school’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent prohibited conduct. The school may contract with a third-party vendor to conduct investigations and or resolution proceedings.

The Title IX Coordinator will work with the following school offices to coordinate investigations:

- Office of Student Affairs
- Office of Human Resources
- Office of Faculty Affairs

4. Complaint

How the school receives a report of prohibited conduct and decides how to proceed can be a process that unfolds over time. Some members of the community (i.e., Responsible Employees) are required by the school to report any suspected or known instance of prohibited conduct. Even in such cases, the school will, to the extent possible, respect an individual’s autonomy in determining whether to move forward with filing a formal complaint and making other important decisions, and the school will provide support to assist each individual in determining the best next steps.

Individuals who wish to report alleged prohibited conduct have various reporting options. (See Appendix C.)

5. Meeting with Complainant and Initial Assessment

Following receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt meeting with the complainant and conducts an initial assessment to determine the next steps to be taken, as follows:

- The Title IX Coordinator discusses the availability of supportive measures, considers the complainant's wishes with respect to supportive measures, informs the complainant that supportive measures are available with or without the filing of a formal complaint, and explains the process for filing a formal complaint. (See Section 8.)
- If the complainant submits a formal complaint, the Title IX Coordinator assesses its sufficiency under the Policy. If needed, the Title IX Coordinator will identify any additional information required to complete the formal complaint. (See Appendix C.)
- If the complainant does not want to submit a formal complaint, the Title IX Coordinator determines whether to initiate a formal complaint based on a violence risk assessment. (See Section 6.)
- During the Initial Assessment, the Title IX Coordinator determines if the allegations, if true, would constitute Tier I, Tier II, or a combination of Tier I and II prohibited conduct, and then identifies appropriate next steps.
- If a formal complaint is filed, the Title IX Coordinator provides notice to all known parties in accordance with Appendix A and Appendix B.
- In addition to offering supportive measures, depending on the outcome of the initial assessment and the parties' wishes, the school will initiate one of the following resolution responses:
 - An informal resolution. (See Appendix A and Appendix B.)
 - A formal grievance process, including an investigation and a hearing.

The Title IX Coordinator works with the complainant to determine whether the complainant prefers a supportive and remedial response, an informal resolution option, or a formal grievance process, as follows:

- If a supportive and remedial response is preferred, the Title IX Coordinator works with the complainant to identify their wishes and then seeks to facilitate implementation. No formal grievance process is initiated at this time. The complainant may elect to initiate a formal grievance at a later point if desired.
- If an informal resolution option is preferred, the Title IX Coordinator assesses whether the formal complaint is suitable for informal resolution, which informal mechanism may serve the situation best, or is available. The Title IX Coordinator

will also seek to determine if the respondent is willing to engage in informal resolution.

- If a formal grievance process is preferred, the school will follow Tier I Procedures (See Appendix A) or Tier II Procedures based on the type of alleged prohibited conduct.
- The Title IX Coordinator will inform both the complainant and the respondent of their rights during a resolution process. (See Appendix E.)

6. Violence Risk Assessment

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) is warranted as part of the initial assessment. Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat. This process will aid in the determination of emergency removal and other measures. (For additional information regarding VRA, see Appendix F.)

7. Emergency Removal as a Required Interim Remedy

The Title IX Coordinator can remove a respondent entirely or partially from employment or education program or activities on an emergency basis when a safety and risk analysis has determined that an immediate threat to self or others' physical health or safety arising from the alleged prohibited conduct justifies removal. This risk analysis is performed using objective violence risk assessment procedures.

Show-cause meeting

In all cases in which an emergency removal is imposed, the student, staff, or faculty member will be given notice of the action and the option to request to meet with the Title IX Coordinator before such action/removal being imposed, or immediately following the removal. The purpose of the meeting will be to explain or show cause why the removal should not be implemented or should be modified. If a show-cause meeting is not requested within three days of receipt of the notice, any objections to the emergency removal will be deemed waived.

The show-cause meeting is not a hearing on the merits of the allegations. This meeting serves as an administrative process intended to determine solely whether emergency removal is appropriate. A complainant (and their advisor) may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable. There is no appeal process for emergency removal decisions following the show-cause meeting.

The respondent will be given access to a written summary of the basis for the emergency removal before the meeting to allow for adequate preparation. A respondent

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may be accompanied by an advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting.

Emergency removal terms

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and determine its conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline through appropriate conduct policies.

The Title IX Coordinator will implement the least restrictive emergency actions possible considering the circumstances and safety concerns. The Title IX Coordinator, working in coordination with the appropriate office (Office of Student Affairs, Office of Human Resources, or Office of Faculty Affairs), may determine these actions include, but are not limited to:

- Temporarily reassigning an employee
- Restricting the respondent's access to or use of facilities or equipment
- Allowing a student to withdraw from classes
- Allowing a student to obtain incomplete grades for particular courses
- Reducing tuition and fees for a particular term in which a student is required to withdraw
- Authorizing an administrative leave
- Suspending a student's participation in extracurricular activities, student employment, or student organizational leadership

Interim activities during emergency removal

- Students: Based on the nature of the program and its curriculum, and at the discretion of the Title IX Coordinator, alternative coursework options may be pursued to mitigate academic impact on the respondent.
- Staff: Where the respondent is an employee, the school will follow appropriate school policies to determine the need for interim action.
- Faculty members: Where the respondent is a faculty member, the school will follow appropriate school policies to determine the need for interim action.

8. Supportive Measures

The Title IX Coordinator 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, and without fee or charge to the parties. These supportive measures are designed to restore or preserve access to the school's education program or activity, protect the safety of all parties or the school's educational environment, and/or deter prohibited conduct.

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The Title IX Coordinator will work with the complainant to offer and implement appropriate supportive measures.

The school will maintain the privacy of any individual receiving supportive measures, provided that this privacy does not impair the school's ability to offer the supportive measures. Supportive measures will be implemented to ensure that such measures do not unreasonably burden the other party and have as minimal an academic/occupational impact on the parties as is reasonably possible.

(For additional details on potential supportive measures, see Appendix G.)

9. Time Frames for Response to Allegations and Resolution Process

All complaints will be resolved as promptly as practicable after receipt of the complaint. The school will provide the parties with periodic updates as it deems appropriate and with timely notice of meetings at which the complainant and respondent may be present. Both parties will be provided timely and equal access to any information that is utilized in the decision-making process.

Reasonable efforts will be made to conclude the process within the following timeframes:

- Any informal resolution within 60 days of the complainant's request.
- An investigation of a formal complaint within 60 days from the time a Notice of Allegations letter is sent to the respondent.
- A hearing within 30 days from the issuance of the investigation report.
- Any reviews/appeals within 30 days from the issuance of a written hearing determination.
- Any reviews/appeals within 14 days of the Title IX Coordinator's issuance of a dismissal of a formal complaint.

Extenuating circumstances could require the process to extend beyond the timeframes set forth above. The Title IX Coordinator will determine at their discretion if such circumstances exist and will notify the complainant and respondent of the delay and the reason for the delay.

Some circumstances the Title IX Coordinator may consider for requiring additional time for resolution of the process may include the following:

- The integrity and completeness of the investigation
- A request by law enforcement
- The complexity of the investigation
- The severity and extent of the alleged conduct
- School closings or limited operations, breaks, holidays, summer terms, to accommodate the delays by witnesses or the parties
- Pandemics or public health crises

- Factors outside the school's control

The hearing officer assigned to a matter will set the time the hearing will convene. Hearings that occur near or after the end of an academic term and are unable to be resolved before the end of the term will typically be held immediately after the end of the term or during the summer, as needed.

10. Disability Accommodation in the Resolution Process

In accordance with the Policy and school processes, reasonable accommodations and support will be provided to qualified students, staff, faculty, or others with disabilities to ensure equal access to the school's resolution process.

11. The Investigation

Appointment of investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints an investigator. In the selection and assignment process, the Title IX Coordinator will ensure no actual or apparent conflicts of interest or disqualifying biases.

Recording of interviews

No unauthorized audio or video recording of any kind will be permitted during investigation meetings. If Investigators elect to audio and/or video record interviews, all involved parties will be informed of the need to record the interview. At all times, the investigator will obtain consent to audio and/or video recording before proceeding with recording an interview.

(For further details on the investigation process, see Appendix H.)

12. Hearing Officer

The hearing officer is the decision-maker for determining the outcome of the hearing.

The hearing officer will oversee the hearing with the support of an administrative facilitator assigned by the Title IX Coordinator.

Who may serve as a hearing officer

The hearing officer will not have had any previous involvement with the investigation.

The hearing officer, assigned by the Title IX Coordinator, may be a trained faculty or staff member. In some cases, the Title IX Coordinator may select a non-KPSOM individual such as a retired judge, attorneys, or other individuals outside the school with specialized training and expertise.

Only individuals who received training on the hearing process and specialized training for the unique issues related to prohibited conduct matters will be selected to serve as the hearing officer.

Those who have served as an investigator of a particular formal complaint may not serve as a hearing officer for that same formal complaint.

Those who serve as advisors for any party may not function in any other role with respect to that matter.

The Title IX Coordinator will not serve as a hearing officer for any matter.

12. Appeals

Either party may request an appeal ("Request for Appeal") of the dismissal of a formal complaint or any allegations therein, the hearing officer's final determination and/or the sanctions imposed. The appeal process will be determined based on the type of alleged violation (Tier I or Tier II). The Appeal Committee will decide the appeal.

A request for an appeal must be submitted in writing to the Title IX Coordinator within five days of the delivery of the Notice of Hearing Outcome. The Request for Appeal will be forwarded to the Appeal Chair to determine if the request meets the grounds for appeal.

Grounds for appeal

Appeals are limited to the following grounds:

- Procedural irregularity that affected the outcome of the matter.
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made and that could affect the outcome of the matter.
- The Title IX Coordinator, investigators, or hearing officers had a conflict of interest or bias for or against complainants or respondents generally or the specific complainant or respondent that affected the outcome of the matter.

If the request for appeal does not meet the grounds in this policy, that request will be denied, and the parties (and their advisors) will be notified in writing of the denial and the rationale.

Disagreement with the findings or recommended sanction, in and of itself, is insufficient grounds for appeal. In addition, a party's decision not to participate in the hearing proceedings may not later be used as a basis for appeal.

(For further details on appeals, see Appendix I.)

Notice of appeal outcome

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify to the extent the school is permitted to share under state or federal law, as follows:

- The decision and rationale on each approved ground.
- Any specific instructions for remand or reconsideration.
- Any sanctions that may result from the appeal.

Sanctions status during the appeal

Any sanctions imposed as a result of the hearing and final determination are stayed during the appeal process. Supportive measures may be continued or reinstated, as warranted.

If a sanction is a removal from the school to be implemented immediately post-hearing, then the emergency removal procedures (detailed in Section 7) will be held within 48 hours of an appeal request.

13. Training

All school officials that participate in this resolution process, as investigators or hearing officer, will be trained to carry out their roles in an impartial manner and keeping with best practices. The school may also rely on trained third-party consultants to fulfill necessary roles in the resolution process.

15. Notice

At all stages, when notice is required, the following guidelines will be applicable:

- Notice will be made in writing and may be delivered by one or more of the following methods:
 - In person
 - Mailed to the local or permanent address(es) of the parties as indicated in official school records
 - Emailed to the parties' school-issued email or designated accounts
- Once mailed, emailed, and/or received in-person, notice will be presumed delivered.
- If notice must be received in a manner necessary to meet disability accommodations, all parties will be informed promptly.

16. Resolution Process

Please refer to the appropriate tier sections for further details, as follows:

- Tier I Prohibited Conduct Formal Grievance Process: Appendix A
- Tier I Hearing Procedures: Appendix J
- Tier II Prohibited Conduct Resolution Process: Appendix B
- Tier I Hearing Procedures: Appendix K

Appendix A: Tier I Procedures

Overview

If at least one of the allegations in a formal complaint falls under Tier I, all allegations in the formal complaint are resolved through this Tier I process.

When a technical dismissal under the Tier I resolution process is required, any remaining applicable allegations will proceed using the appropriate grievance procedures under Tier II Process (See Appendix B).

All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

Dismissal of a formal Tier I complaint

Mandatory dismissal

The Title IX Coordinator must dismiss a Tier I formal complaint and all associated allegations at any time during the investigation or hearing if it is determined that any or all of the following is true:

- The conduct alleged in the formal complaint would not constitute prohibited conduct as defined in the Policy, even if proved.
- The conduct did not occur in an education program or activity controlled by the school (including buildings or property controlled by recognized student organizations).
- The conduct did not occur against a person in the United States.
- At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in an education program or activity of the school.

Discretionary dismissal

The school may dismiss a formal Tier I complaint or any allegations therein if, at any time during the investigation or hearing, the following applies:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein.¹
- The respondent is no longer enrolled in or employed by the school.
- Specific circumstances prevent the school from gathering enough evidence to reach a determination as to the allegation in the formal complaint (e.g., the school does not have control over the respondent).

¹ A complainant who decides to withdraw a Complaint may later request to reinstate it or refile it.

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Upon any dismissal, the school will promptly send written notice of the dismissal and the underlying reasons for the dismissal simultaneously to the parties.

This dismissal decision is appealable by either party (See Section 13).

Depending upon the circumstances of the dismissal decision, and in accordance with the policy, the Title IX Coordinator will determine whether the complaint should proceed under Tier II procedures (See Appendix B).

Counterclaims

The grievance process permits the filing of counterclaims. All counterclaims are subject to an initial assessment (See Section 5).

Counterclaims reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place in tandem with the current investigation or after the resolution of the underlying initial allegation, at the discretion of the Title IX Coordinator.

In accordance with the Policy, counterclaims made with retaliatory intent are not permitted. At the discretion of the Title IX Coordinator, after consultation with the appropriate disciplinary bodies, when counterclaims are not made in good faith, such claims will be considered retaliatory and may constitute a violation of the Policy, and the conduct will be subject to review.

Right to an advisor

The parties may each have an advisor present with them for all meetings and interviews within the resolution process if the party so chooses. The parties may select an advisor of their choice, provided the selected advisor is willing, eligible, and available.

Advisors in hearings/school-appointed advisor

Cross-examination is required during the hearing and must be conducted by the parties' advisors. The parties are not permitted to cross-examine each other or any witnesses directly. If a party does not have an advisor for a hearing, the school will appoint a trained advisor to conduct any cross-examination.

A party may not proceed in a hearing without an advisor. If the party's selected advisor does not conduct cross-examination, the school will appoint an advisor who will conduct the cross-examination, regardless of the participation or non-participation of the advised party in the hearing itself. In addition, when the party's selected advisor does not conduct the cross-examination, two advisors for that party will be permitted during the hearing. Questioning of the parties and witnesses may also be conducted by the hearing officer(s) during the hearing. (See Appendix D.)

Ensuring impartiality

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At any time during the resolution process, the parties may raise a concern regarding bias or conflict of interest.

The complainant and respondent may each request in writing, no later than three days upon receipt of information, that an investigator or hearing officer be excused for a good cause (e.g., conflict of interest). The Title IX Coordinator will evaluate the request in consultation with appropriate parties familiar with the potential conflict or bias. Following consultation, the Title IX Coordinator will make a determination and provide notice of the decision to both the complainant and respondent.

If a conflict or bias is determined, another investigator or hearing officer will be assigned. If the basis of the conflict of interest or bias is the Title IX Coordinator, the Title IX Coordinator will raise the concern directly to the Kaiser Permanente National Chief Compliance Officer, who will assess the conflict. If necessary, the Kaiser Permanente National Chief Compliance Officer will delegate the oversight of the conflicted matter to legal counsel.

Resolution processes

Participation

The complainant or respondent may decline to participate in the resolution process. The school may proceed with the resolution process based upon the nature of the complaint and available information.

Under Tier I resolution processes, lack of participation in the hearing may impact the ability to utilize statements in the decision-making process.

Informal resolution

Under Tier I, to initiate informal resolution, a complainant needs to submit a formal complaint (see Appendix C). Informal resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternate resolution mechanism including mediation, restorative practices, etc.
- The respondent accepts responsibility for violating policy and desires to accept a sanction to end the resolution process.
- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

Informal resolutions are not acceptable under Tier I when the matter involves a student complainant and a staff or faculty respondent.

It is not necessary to pursue an informal resolution first in order to initiate the formal grievance process. Any party participating in informal resolution can stop the process at any time and begin or resume the formal grievance process.

Before implementing informal resolution, the school will provide the parties with written notice of the following:

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- The alleged prohibited conduct.
- Any requirements associated with an informal resolution.
- A list of any potential disciplinary or other measures that may result from participating in an informal process, including what records will be maintained or shared by the school.

The written notice will include the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations.

All parties must consent to the use of an informal resolution process. The Title IX Coordinator will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before proceeding. At no time will the Title IX Coordinator pressure parties to participate in informal resolution.

Results of complaints resolved by informal resolution are not appealable.

Alternate resolution

Alternate resolution is an informal process, including mediation or restorative practices, etc., by which a mutually agreed-upon resolution of an allegation is reached. The Title IX Coordinator has the ultimate authority to determine whether an alternate resolution is available or an acceptable process for resolution has been carried out. In addition, the Title IX Coordinator, with the parties' consent, may negotiate and implement an agreement to resolve the allegations that satisfy all parties and school.

Respondent accepts responsibility

The respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the respondent indicates an intent to accept responsibility for all the alleged misconduct, the formal process can be paused. The Title IX Coordinator will determine whether informal resolution can be used according to the criteria in that section above.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions.

If the parties cannot agree on all terms of resolution, the formal grievance process will be initiated or resume at the same point where it was paused, as applicable.

Referral for hearing

If the complaint is not resolved through Informal Resolution (See "Resolution Processes" above), once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing under the formal grievance process.

Formal grievance process

Evidentiary considerations in the resolution process

The formal grievance process involves an objective evaluation of all relevant evidence obtained, which may support or refute whether the respondent engaged in a policy violation.

All times during the resolution process, credibility determinations will not be based solely on an individual's status or participation as a complainant, respondent, or witness.

All school assigned participants, Title IX Coordinator, investigators, and hearing officers, will operate with the presumption that the respondent is not responsible for the alleged prohibited conduct unless and until the respondent is determined to be responsible for a policy violation by clear and convincing evidence.

Neither the investigators nor the hearing officer will consider the following:

- Incidents not directly related to the possible violation unless there is evidence of a pattern.
- The character of the parties, when irrelevant to an assessment of whether the alleged prohibited conduct occurred.
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior (with limited exceptions noted below).

The investigator and the hearing officer can consider questions and evidence about the complainant's sexual predisposition or prior sexual behavior if such questions and evidence are offered 1) to prove that someone other than the respondent committed the conduct alleged by the complainant, or 2) to establish consent.

Notice

The Title IX Coordinator will provide written notice of the investigation and allegations to the respondent upon commencement of the formal grievance process. The Title IX Coordinator will tell complainant in advance when the notice will be delivered to the respondent.

The notice will include the following:

- A meaningful summary of all allegations.
- The identity of the involved parties (if known).
- The precise prohibited conduct being alleged.
- The date and location of the alleged incident(s) (if known).
- The specific policies implicated.
- A description of the applicable procedures.
- A statement of the potential sanctions/responsive actions that could result.
- A statement that the school presumes the respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination.

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- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be allowed to inspect and review all directly related and/or relevant evidence obtained during the grievance process.
- A statement about the school's policy on retaliation.
- Information about the privacy of the process.
- A statement that each party may have an advisor of their choosing and suggestions for ways to identify an advisor.
- A statement informing the parties that the school's policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process.
- Information on how the parties may request disability accommodations during the interview process.
- The school's Violence Against Women Act (VAWA) information details.
- The names of the Investigators, along with a process to identify, in advance of the interview process, any conflict of interest that the Investigators may have.
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the notice may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Referral for hearing

Once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing date will not be less than 10 nor more than 30 days from when the final investigation report is transmitted to the parties and the decision-maker, unless all parties and the hearing officer agree to an expedited timeline.

Notice of hearing

The hearing officer will send notice of the hearing to the parties.

The notice will contain the following:

- A description of the alleged violations, a list of all associated policies regarding the alleged violations, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory and overrides all other campus activities for the participants.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the hearing officer(s) and parties to see and hear a party or witness answering questions. The notice will

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identify that such a request must be raised with the hearing officer at least five days before the hearing.

- A list of all those who will attend the hearing, along with an invitation to object to any assigned hearing officer on a demonstrated bias. The notice will identify that such a request must be raised with the Title IX Coordinator at least five days before the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the hearing officer.
- Based on a request for a hearing postponement in order to attend, at the sole discretion of the hearing officer, the hearing officer may reschedule the hearing.
- Notification that the parties will be required to have an advisor present to ask any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an advisor, and the school will appoint one. Each party must have an advisor present.
- A copy of any materials provided to the decision-maker(s) about the matter, which have not been previously distributed to the parties.
- An invitation to each party to submit to the hearing officer an impact statement pre-hearing. The hearing officer will forward the impact statements to the appropriate disciplinary body along with the hearing findings to be considered during any Sanction determination.
- A requirement to contact the Title IX Coordinator at least seven days before the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing,
- A statement that the hearing will be recorded by the school with the following retention obligations:
 - This recording will be the only official record of the hearing.
 - This recording will be maintained in compliance with federal and state law and the school records retention policy.
 - After the hearing, any party wishing to review this recording may submit a written request to the Title IX Coordinator.

Both the complainant and respondent will receive the above information unless they submit a written request not to receive further information.

The school may modify these notification standards to accommodate a criminal investigation.

Standard of proof and impact statements

The hearing officer will determine whether the respondent is responsible for the reported policy violations. The investigation and grievance process will determine, by "clear and convincing evidence," whether the policy has been violated.

The hearing officer will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party or parties. When there is a finding of responsibility on one or more of the allegations, the hearing officer will provide the impact statements to the appropriate disciplinary body. An impact statement, although permitted, is not dispositive for determining the appropriate sanction.

Impact statements, which are voluntary, are limited to five pages in length. All impact statements must be received before the start of the hearing. The Title IX Coordinator, at their sole discretion, may grant an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

Based on the findings, the relevant disciplinary body will determine the sanction in accordance with the current conduct policies within five days from receipt of the decision and provide it to the hearing officer for inclusion in the notice.

(See Appendix J for further details regarding the Tier I hearing process.)

Notice of Outcome

Notice of determination and sanctions

Within 15 days after the hearing, the hearing officer will send a simultaneous written notice to the complainant and respondent (with a copy to the Title IX Officer and the appropriate disciplinary body) setting forth the determination on whether the policy and/or other student conduct policies have been violated, and, if so, determination of any sanctions to be imposed.

The written notice will include the following:

- A summary of the allegations that would constitute prohibited conduct violations under the policy and any other related violations, as applicable.
- For each allegation, the determinations of whether the Policy and other policies have been violated.
- A description of the imposed sanctions, if any, and the associated rationale regarding each allegation.
- That the Title IX Officer will determine whether complainant will be provided additional remedies and will inform complainant of that determination.
- A description of the procedural history of the complaint.
- A summary of the facts found by the Investigator that the parties did not dispute.
- The findings on each disputed, material fact and an analysis of the evidence supporting the findings.

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- The rationale for the determination of each charge.
- A statement of the right to appeal, grounds and timeframe for the appeal, the office to which the appeal must be submitted, and the procedure that the school will follow in deciding the appeal.
- An explanation that both the parties will receive a copy of any appeal submitted in accordance with these procedures.

Sanctions

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal. (See Policy Prohibiting Sexual Misconduct, Sex Discrimination, and Retaliation, Appendix 5 for potential sanctions.)

Withdrawal or resignation while charges pending

Should a respondent decide not to participate in the resolution process, the process proceeds absent their participation. Should a student respondent permanently withdraw or resign from the school, the resolution process ends, as the school no longer has disciplinary jurisdiction over the respondent. However, the school may place a notation on the student respondent's transcript if a withdrawal occurs while an investigation is underway.

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

Appendix B: Tier II Procedures

Overview

The procedures described below apply to all Tier II allegations. Tier II procedures may also cover other school policy violations when jurisdiction does not fall within Tier I.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with the prohibited conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy Prohibiting Sexual Misconduct, Sex Discrimination, and Retaliation will be addressed through the procedures in the respective Academic Catalog, Faculty Handbook, or Employee Handbook.

Informal resolution

The Title IX Coordinator, the complainant, or the respondent may propose an informal resolution of the complaint at any time. When feasible and permitted, informal resolution may include an agreement to stay away from persons, alter behavior, or change schedules.

If a party proposes an informal resolution and the Title IX Coordinator finds the informal resolution proposal acceptable, the Title IX Coordinator will propose the informal resolution to the other party. If both parties agree to the proposed informal resolution, and the outcome is acceptable, the matter will be considered resolved and closed. If either party disagrees with the proposed informal resolution, the complaint resolution process will continue. In situations involving faculty, the Senior Associate Dean of Faculty Affairs must be notified. In situations involving a staff member, the Director of the Office of Human Resources must be notified.

Mediation

In some situations, mediation may be used to resolve a complaint, but only with the consent of both the complainant and respondent. Mediation, which typically involves an attempt to resolve a dispute through the help of an objective party, is not available in cases of sexual assault.

At no time will mediation be required, and participants may end their participation at any time. If mediation concludes without a successful resolution, the resolution process will continue. If mediation successfully resolves the complaint, the matter shall be considered resolved.

Administrative resolution

An administrative resolution involves an objective evaluation of all relevant evidence obtained, including evidence that may support or refute whether the respondent engaged in a policy violation.

At all times during the resolution process, credibility determinations will not be based solely on an individual's status or participation as a complainant, respondent, or witness.

Notification of formal grievance process

If the Title IX Coordinator determines there is reason to move forward with a formal investigation, the complainant and respondent will be provided with written information regarding the Tier II grievance process. This notification will include a link to the following:

- The policies and procedures related to the Tier II grievance process.
- The resources available both on and off-campus.
- information on supportive measures that may be available (See Section 8).

The primary method for notice and communication will be school email. All persons involved in the Tier II resolution process have an obligation to read all school emails promptly.

Complainants and respondents will simultaneously receive notice of the following:

- The complaint, including alleged policy violations and the process for review and investigation of the complaint.
- The option for informal resolution, where applicable.
- The opportunity to review the investigation report and all documents/evidence gathered during the investigation (subject to limitations within the Family Educational Rights and Privacy Act, or FERPA).
- The date, time, and location of the review hearing.
- The name of the hearing officer, the process to challenge the hearing officer, and any conflict-of-interest challenges.
- The process for appealing either the finding or recommended sanction(s).

Both the complainant and respondent will receive the above information unless they submit a written request not to receive further information.

The school may modify these notification standards to accommodate a criminal investigation.

Advisor

The complainant and respondent may choose anyone (including legal counsel or a union representative) to voluntarily serve as an advisor. The complainant and respondent may be accompanied to any meeting or hearing by their advisor.

Upon request, the school will assign a school-provided advisor to each complainant and respondent. The school-provided advisor will not otherwise be involved in the investigation. The school-provided advisor may help explain the steps involved in the resolution process and be available to answer questions regarding the process. The school-provided advisor may not speak on behalf of the complainant or respondent or otherwise engage with the investigators, hearing officer, or witnesses.

Appendix B: Tier II Procedures

If a party requests that all communication be made through their attorney advisor, the school will comply with that request at the discretion of the Title IX Coordinator.

The complainant and respondent must notify the Title IX Coordinator at least three days before the hearing date if they wish to bring an advisor to a hearing. The notification must include the name of the advisor.

Investigation report

Under the direction and oversight of the Title IX Coordinator, a formal investigation will commence. The investigation team will review all the facts and present a written report to the Title IX Coordinator or their designee.

The investigation report will provide the following:

- A summary of the information gathered
- A description of the alleged incident
- Any factual agreements and disputes and supporting information

In cases involving a faculty respondent, the final report is shared with the Faculty Advisory Committee Chair.

(See Appendix I for further details regarding the investigation process.)

Hearing

If the informal resolution or mediation process is inappropriate or unsuccessful, and/or the school or one of the parties requests a hearing, the school will conduct a review hearing.

The complainant and respondent will be provided with the hearing officer's name in advance of the hearing process.

The hearing officer will consider all information presented, including the investigation report, and conclude one of the following:

- A policy violation has occurred based on a preponderance of the evidence.
- There is insufficient evidence to conclude that a policy violation has occurred by applying the preponderance of the evidence standard.

If the hearing officer decides that any policy violation has occurred, they will send their determination and findings to the appropriate disciplinary body within 10 days of the hearing.

Based on the findings, the relevant disciplinary body will determine the sanction in accordance with the current conduct policies within five days from receipt of the decision and provide it to the hearing officer for inclusion in the notice.

(See Appendix K for further details regarding the Tier II hearing process.)

Notification of hearing outcome

Notice of determination and sanctions

Within 30 days of the hearing, the hearing officer will send a simultaneous written notice to the complainant and respondent (with a copy to the Title IX Officer and the appropriate disciplinary body) setting forth the determination on whether the policy and/or other student conduct policies have been violated, and, if so the sanctions to be imposed.

The notice will include the following:

- The hearing officer finding and reason for each finding.
- The sanction(s) promulgated by the appropriate disciplinary body.
- The process for appealing either the finding or recommended sanctions.

The complainant and respondent will receive the above information unless one or both request in writing not to receive further information.

The school may modify these notification standards to accommodate a criminal investigation.

Sanctions

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal. (See Policy Prohibiting Sexual Misconduct, Sex Discrimination, and Retaliation, Appendix 5 for potential sanctions.)

Appendix C: Filing a Complaint or Notice

Filing a notice or complaint of discrimination, harassment, and/or retaliation

Notice or complaints of sex or gender-based discrimination, harassment, and/or retaliation may be communicated in any of the following ways:

File a complaint with or give verbal notice to the Title IX Coordinator or a school official with authority. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address or by mail to the office address listed for the Title IX Coordinator or any other school official listed below.

Report online, using the Ethics and Compliance Hotline. Anonymous reports are accepted.

The school tries to provide supportive measures to all complainants, which is impossible with an anonymous report. The complainant should not fear a loss of privacy by making a report that allows the school to discuss and provide supportive measures. Reporting carries no requirement that the school initiates a formal response except in very limited circumstances (e.g., the school will respect the complainant's request not to file a formal complaint unless there is a compelling threat to health and or safety).

File a formal complaint. To file a formal complaint, the complainant or the Title IX Coordinator must submit a written complaint alleging a respondent's policy violation and requesting that the school investigate the allegations. For valid submission, the written request by regular mail, electronic mail, or through an online portal provided for this purpose by the school must meet the following requirements:

- Contains the complainant's physical or digital signature, or other indication that the complainant is the person filing the formal complaint.
- Confirms that the complainant is requesting that the school investigate the allegations.

If the formal complaint is submitted in a form that does not meet the requirements, the Title IX Coordinator will contact the complainant to provide additional instruction for proper documentation of a formal complaint.

Getting immediate help

If you or someone you know has experienced a sexual assault and are in immediate danger, or if you think there could be an ongoing threat to the school community, call 911 or contact school security and get to a safe place.

For more information on what to do, please refer to the contact list below.

Preserving evidence

To preserve evidence, leave the scene undisturbed, and allow law enforcement to collect evidence.

If law enforcement is delayed or the victim chooses not to report immediately, the victim should collect bedding or clothing and store items in paper bags and collect a prophylactic device of any type in a paper bag. All potential evidence should be placed in separate paper bags to

Appendix C: Filing a Complaint or Notice

prevent cross-contamination of evidence. If possible, use gloves to collect the evidence and place gloves in a paper bag once finished. If possible, the victim should not bathe, urinate, douche, brush their teeth, drink liquids, or change clothing before seeking medical attention.

For more information on what to do, please refer to the contact list below.

How to access resources

Students, faculty, or staff who believe they are victims of sexual assault may make a report or seek assistance using any of the resources below. Victims may choose where to report incidents of sexual misconduct. However, it is crucial to understand that off-campus reports (e.g., off-campus police and hospitals) may not be shared with the school and do not constitute notice to the school.

Appendix D: Advisors

Who may serve as an advisor

The complainant and respondent may choose anyone (including legal counsel or a union representative) to voluntarily serve as their advisor. The complainant and respondent may be accompanied to any meeting or hearing by their advisor.

The advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose advisors from inside or outside of the school community. The parties can also request that the school provide an advisor to them. Any school-provided advisor will be appropriately trained and familiar with the school's resolution process.

Parties have the right to choose not to have an advisor in the initial stages of the resolution process, prior to a hearing.

A party cannot choose an advisor who is also a witness.

Advisor's role

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The advisor may support and advise. However, the advisor may not speak on behalf of the complainant or respondent or otherwise engage with the investigators, hearing officer, witnesses, or other individuals associated with the resolution process, except as required in the cross-examination of witnesses during a hearing.

The school is not obligated to provide an attorney to serve as a school-provided advisor, even when the other party's choice of advisor is an attorney.

Pre-interview meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of those interviews or meetings. This pre-meeting allows advisors to clarify and understand their role and the school's policies and procedures. Both the complainant or respondent, regardless if they have identified or requested an advisor at this stage, may request such meetings themselves in order to clarify/understand the school's policies and procedures.

Advisor violations of school policy

All advisors are subject to the same school policies and procedures. advisors are expected to advise their advisees without disrupting proceedings. Advisors should not

address school officials in a meeting or interview unless necessary, such as asking a procedural question. The advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing officer except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions throughout the investigation phase of the resolution process. Although the advisor generally may not speak on behalf of their advisee, the advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For lengthier or more involved discussions, the parties and their advisors may ask for breaks to allow for a private consultation.

Any advisor who disregards their role as defined by the policy and associated procedures will be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor's role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the advisor's non-compliance and future role. This disruption could also cause an unexpected delay in the resolution process.

Sharing information with the advisor

The school expects that the parties may wish to have the school share documentation and evidence related to the allegations with their advisors. Doing so may help the parties participate more meaningfully in the resolution process.

The school will provide a consent form that the party will complete to authorize the school to share such information directly with their advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the advisor before the school is able to share records with an advisor.

Privacy of records shared with advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the school. The school may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the school's privacy expectations.

Expectations of an advisor

The school generally expects an advisor to adjust their schedule to attend scheduled meetings related to the matter. Still, the school may change scheduled meetings to accommodate an advisor's schedule if doing so does not cause an unreasonable delay.

The school may also make reasonable provisions to allow an advisor to attend a meeting by telephone, video conference, or other convenient and available technologies.

Expectations of the parties with respect to advisors

A party may elect to change advisors and is not obligated to use the same advisor throughout the process. The parties are expected to inform the investigators of the identity of their advisor at least two days before the date of their first meeting with investigators. When feasible, the investigator may also accept a request from either party for a more expeditious meeting, if necessary or desired.

If a party changes advisors, consent to share information with the previous advisor is terminated, and a release for the new advisor must be completed and submitted with the notice of the change.

For parties who are entitled to union representation, the school will allow the unionized employee to have their union representative (if requested by the party) and an advisor of their choice present for all resolution-related meetings and interviews. witnesses are not permitted to have union representation or other advisors in resolution process interviews or meetings.

Appendix E: Complainant and Respondent Resolution Process Rights

Both the complainant and respondent have the following rights:

- The right to an equitable investigation and resolution of all credible allegations of prohibited conduct must be made in good faith to the school.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be treated with sensitivity and respect by the school.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right to be informed of available interim actions and supportive measures, such as counseling, advocacy, healthcare, or other services on campus and in the community.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of prohibited conduct, if such changes are reasonably available. No formal complaint or investigation, either campus or criminal, needs to occur before such options are considered as potential supportive measures.
- The right to be informed that if they share personally identifiable details with non-confidential responsible employees, those details must be shared with the Title IX Coordinator.
- Changing an employee's work environment (e.g., reporting structure, office/workspace relocation).
- Transportation accommodations.
- Exam, paper, and assignment rescheduling or adjustment.
- Receiving an incomplete grade or a withdrawal from a class (may be retroactive).
- Transferring class sections.
- Temporary withdrawal or leave of absence (may be retroactive).
- Campus safety escorts.
- Alternative course completion options.
- When possible, the right to receive sufficiently advanced written notice of any meeting or interview involving the other party.
- The right to have irrelevant prior sexual history or character excluded (not admitted) as evidence, with certain limited exceptions as described in the procedures.

Appendix E: Complainant and Respondent Resolution Process Rights

- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to fair opportunity to provide the investigators with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report. This right is subject to the privacy limitations imposed by state and federal law. Each party will be given at least 10 days to review the report before the hearing.
- The right to respond to the investigation report, including providing any additional relevant evidence and having that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of a hearing or finding.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and hearings related to the grievance process that are otherwise closed to the public.
- The right to petition for the recusal of any school representative in the process based on disqualifying bias or conflict of interest.
- The right to have an advisor of their choice to accompany and assist the party in all meetings and interviews associated with the resolution process within the guidelines set forth under the Title IX Policy and Procedures.
- The right to be present live or via remote technology during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered following a determination of responsibility for any allegation before a determination of sanctions.
- The right to be promptly informed in a written Notice of Outcome letter of the findings and sanctions of the resolution process delivered simultaneously to the parties.

Appendix F: Violence Risk Assessment

A Violence Risk Assessment (VRA) is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other behavior intervention specialists.

A VRA requested by the Title IX Coordinator should occur in collaboration with the threat assessment team. When the Title IX Coordinator requires a VRA, a respondent refusing to cooperate may result in a charge for failure to comply within the appropriate student or staff conduct process.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

A VRA can aid in critical and required determinations, including the following:

- Emergency removal of a respondent based on an immediate threat to physical health/safety.
- Whether the Title IX Coordinator should pursue/submit a formal complaint absent a willing/able complainant.
- Whether to proceed with an investigation of the incident as one of a pattern and climate.
- To help assess/identify grooming behaviors.
- Whether it is reasonable to try to resolve a formal complaint through informal resolution, and what process may be most successful.
- Whether to permit a voluntary withdrawal by the respondent.
- Whether to impose transcript notation or communicate with a transfer institution about a respondent.
- Assessment of appropriate sanctions or remedies (to be applied post-grievance process).

Appendix G: Supportive Measures

The Title IX Coordinator will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged prohibited conduct.

Supportive measures, which will be based on the individual and specific factual circumstances, may include, but are not limited to the following:

- Referral to counseling, medical, and/or other healthcare services.
- Referral to the Employee Assistance Program.
- Referral to community-based service providers.
- Education to the individual and or the community, including but not limited to site or group assignments.
- Alteration of work arrangements for employees.
- Safety planning.
- Provision of security escorts.
- Provision of transportation accommodations.
- Implementation of no-contact orders between the parties.
- Student, faculty, or staff violations of no contact orders, trespass, or persona-non-grata (PNG) instructions will result in referral to applicable enforcement processes.
- Timely warnings of potential dangers.
- Class schedule modifications, withdrawals, or leaves of absence.
- Increased security and monitoring of certain areas of the campus.
- Temporary or permanent alteration of work arrangements for employees.
- Climate surveys.
- Policy modification and/or training.
- Implementation of adjustments to academic assignments, including but not limited to academic deadlines or course schedules. This could also include site or group assignments.
- Any other actions deemed appropriate by the Title IX Coordinator.

Appendix H: Investigation Process

Overview

All investigations will be conducted in a thorough, reliable, impartial, prompt, and fair manner. Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties will be granted a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to review and respond to all evidence on the record.

Each interviewed party and witness will have the opportunity to review and verify the investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.

Investigator duties and obligations

The investigator is responsible for the following:

- Provide meeting participants with written notice of the date, time, and location of any meeting (including interviews and hearings), as well as the expected participants and purpose of the meeting.
- Notify the parties of any planned meeting or interview involving the other party.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Allow each party to suggest witnesses and questions they wish the investigators to ask of the other party and witnesses, and document in the report which questions were asked, and which were omitted and why, when applicable.
- During the investigation, the investigator will communicate regularly with the parties to update them on the investigation's progress and timing.
- Before the investigation's conclusion, the investigator will provide the parties and their respective advisors (if so desired by the parties) with a list of witnesses whose information will be used as evidence in determining if there was a policy violation.
- Prepare an investigation report that fairly summarizes the investigation and all witness interviews and addresses all relevant evidence. The report will include information/copies of all relevant physical or documentary evidence.
- The investigator is not permitted to make any conclusions, engage in any policy analysis, and cannot submit recommendations as part of the investigation report
- Before the investigation concludes, the investigator will provide the parties and, if requested, their respective advisors a secured electronic or hard copy of the draft investigation report.

Appendix H: Investigation Process

- The investigator will allow all parties to inspect and review all material obtained as part of the investigation directly related to alleged prohibited conduct.
 - The parties will be granted 10 days to review and respond to the evidence. The parties may elect to waive the full ten days.
 - Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., complainant, respondent, complainant's advisor, or respondent's advisor).
- Upon receipt of any submitted responses to the investigator's report from the parties, the investigator may elect to respond in writing to the parties, or the investigator may share the responses between the parties to solicit additional responses.
 - The investigators will incorporate relevant elements of the parties' written responses into the final investigation report and include any additional relevant evidence based on those responses.
 - The investigators will share the report with the Title IX Coordinator and assigned legal counsel, if applicable, for review and feedback before finalizing the report.
 - The investigator will provide a copy of the report to all parties and their advisors through secure electronic transmission or hard copy at least 10 days before a hearing.

Role and participation of witnesses in the investigation

Employees who are witnesses (as distinguished from the parties) in the investigation are required to cooperate and participate in the school's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of school policy and may warrant discipline.

Investigation interviews may be conducted in person or remotely via real-time electronic technologies. The school will take appropriate steps to reasonably ensure the security and privacy of remote interviews.

If deemed appropriate and acceptable by the investigators, witnesses may also provide written statements in lieu of interviews or choose to respond to written questions. Any submitted witness written statement will not be used as evidence if the witness is not present for cross-examination at the hearing.

Recordkeeping

After issuance of the investigator's written report, the investigation file, consisting of the investigation report and any evidence documented as relevant by the investigator, must be retained by the Title IX Officer. The investigation file will be made available to the parties for inspection upon request. It may be redacted to protect privacy.

Appendix I: Appeals

Appeal panel composition and deliberation

The appeal panel will be comprised of a representative from each of the three disciplinary bodies.

No individuals involved in the previous process may serve on the appeal panel.

The appeal panel will meet in a closed session. This meeting is not a hearing. The appeal panel will evaluate the appeal on applicable grounds.

The appeal review process is as follows:

- The non-appealing party (and their advisors), the Title IX Coordinator, and, when appropriate, the investigators and the original hearing officer will be provided a copy of the request with the approved grounds and then be given three days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the chair to all parties for review and comment.
- At this time, the non-appealing party may also choose to raise a new ground for appeal. If so, that appeal will be reviewed for standing by the appeal chair and either denied or approved. If approved, it will be forwarded to the appropriate parties in accordance with the procedures outline herein.
- Neither party may submit any new requests for appeal after the three-day response period.
- The appeal chair will collect any additional information needed. All documentation regarding the approved grounds and the subsequent responses will be shared with the appeal panel. The chair will render a decision in no more than three days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence standard.
- For any approved appeal request, the appeal panel will review the hearing record to determine whether the basis for appeal may have impacted the original decision.
- The appeal panel's review is limited to upholding the original decision or remanding to the appropriate office/stage of the process for reconsideration in light of the grounds for appeal.
- The original hearing officer's alleged deviation from procedures will not necessarily warrant a reversal of the hearing officer's decision unless there is evidence this deviation caused significant prejudice to the respondent, complainant (or the school, if the complainant did not participate), and a different outcome would have been likely.
- The appeal panel will generally issue its written decision within three days of the conclusion of the appeal panel meeting. The appeal decision will explain the reasoning for the decision, including a review of any sanction(s) recommended

by the hearing officer. The appeal panel will submit its written decision to the Title IX Coordinator for evaluation and implementation.

Appeal considerations

- Decisions on appeal are to be deferential to the original decision. Changes to the findings will only be made when there is a clear error. Changes to the sanctions or responsive actions will only occur if there is compelling justification.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegations. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for the appeal panel or chair to substitute their judgment for that of the original hearing officer merely because they disagree with the finding and/or sanctions.
- The appeal chair/panel may consult with the Title IX Coordinator on procedural or rationale questions if needed. Documentation of all such consultations will be maintained.
- Appeals granted based on new evidence should typically be remanded to the original investigators and hearing officer for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original hearing officer (as in cases of bias or unavailability), the appeal decision may order a new hearing with a new hearing officer.
- The results of a remand to the hearing officer cannot be appealed. The results of a new hearing can be appealed, once, on any of the available appeal grounds.

In cases in which the appeal results in reinstatement to the school or resumption of privileges, all reasonable attempts will be made to restore the respondent to their prior status, recognizing that some lost opportunities may be unavoidable.

Appendix J: Tier I Hearing Procedures

Pre-hearing preparation

After any necessary consultation with the parties, investigator, and the Title IX Coordinator, the hearing officer will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least 10 days before the hearing.

Before a witness can participate

- Any witness scheduled to participate in the hearing must have been interviewed by the investigator or have proffered a written statement or answered written questions.
- If all agree, parties and the hearing officer can waive this requirement.

Before evidence can be used at a hearing

- Evidence must be reviewed and accepted by the hearing officer as relevant.
- If newly offered evidence is raised at the hearing and the parties and hearing officer do not assent to the admission of the evidence, the hearing officer may delay the hearing and instruct that the investigation needs to be re-opened to consider the new evidence.

Elimination of witnesses

- With full agreement of the parties, the hearing officer may decide in advance of the hearing that certain witnesses do not need to be present if the investigator can adequately summarize their testimony in the investigation report or during the hearing.

Removal of hearing officer

- **Party objection to hearing officer:** The parties will be given the hearing officer's identity at least five days in advance of the hearing. All objections to the hearing officer 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 five days before the hearing. A hearing officer will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegations.
- **Hearing officer recusal:** The Title IX Coordinator will give the hearing officer the names of all parties, witnesses, and advisors at least five days in advance of the hearing. A hearing officer who cannot make an objective determination must recuse themselves. If a hearing officer is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as the potential bias or conflict of interest is discovered.

Alternative hearing participation options

- If a party or witness prefers not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the hearing officer at least five (5) days before the hearing.

Submission of potential questions and relevant evidence

- **Questions:** The hearing officer may convene a pre-hearing meeting or request, without a meeting with the parties (and their advisors), submission of the questions or topics they wish to ask or discuss at the hearing. The hearing officer can rule on their relevance in advance or provide recommendations for more appropriate phrasing. This advance review opportunity does not preclude the advisors from asking at the hearing for reconsideration based on any new information or testimony offered at the hearing. The hearing officer must document and share their rationale for any exclusion or inclusion of evidence or testimony at this pre-hearing meeting.

Evidence

At each pre-hearing meeting with a party (and their advisor), the hearing officer will consider arguments regarding the relevance of evidence included in the investigator's report.

The hearing officer may rule on these arguments pre-hearing. All rulings will be exchanged between the parties before the hearing to assist in preparation for the hearing. The hearing officer may consult with legal counsel and the Title IX Coordinator during this process. School legal counsel or the Title IX Coordinator may attend but are not required at pre-hearing meetings.

Expert evidence

The parties may present evidence from expert witnesses if it would be relevant to determining whether a policy violation occurred.

If a party wishes for such evidence to be considered, they will make a written request to the hearing officer. The written request will identify:

- Their expert witness
- The issues on which they would provide expert evidence
- The reasons that the issues require an expert opinion for resolution
- Any prior relationship, including personal and business relationships, between the party and the proposed expert

The hearing officer will grant a request for the proposed expert to provide evidence if the proposed evidence is relevant to proving whether the facts material to the allegations under investigation are likely to be true.

If the hearing officer grants a request for proposed expert evidence, they will notify all parties.

If expert testimony is granted, the other party may request to present a proposed expert on the same issue or present their expert evidence on other relevant issues.

The school may also retain an expert on any issue on which one or both parties will be presenting expert evidence. The school will ensure that any such expert does not have bias or conflict of interest and will notify the parties of any expert it intends to retain.

As part of the evidence they present, an expert witness will provide the investigator information about the following:

- Their qualifications
- The factual basis for their assertions
- Their principles, methods, and their associated reliability

These factors will contribute to the assessment of the weight and credibility of the expert witness's evidence.

In general, parties may not request a proposed expert witness to testify at the hearing unless those expert witnesses have provided evidence during the investigation.

Recordings

Pre-hearing meetings will not be recorded.

Hearing procedures

At the hearing, the hearing officer has the authority to hear and make determinations on all allegations of prohibited conduct and may also hear and make determinations on any additional alleged school policy violations that have occurred in concert with the prohibited conduct.

Participants at the hearing will include:

- Hearing officer
- Administrative facilitator
- The investigator who conducted the investigation
- Parties
- Advisors to the parties
- Any called witnesses
- Title IX Coordinator
- Persons providing authorized accommodations or assistive services
- School legal counsel (in some cases)

At either party's request, the school will provide a way for the entire hearing to be conducted with the parties in separate rooms. The parties will be able to see and hear each other in real time. Any party or witness may be allowed to participate in the hearing remotely.

The hearing officer will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The hearing officer will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the hearing officer and the advisors and will then be excused.

Joint hearings

In hearings involving more than one respondent or in which two or more complainants have accused the same respondent of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and hearings pertinent to each respondent 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 with respect to each alleged policy violation.

Order of the hearing

Introductions and explanation of procedure

The hearing officer explains the procedures and introduces the participants. This phase of the hearing may include a final opportunity for challenge or recusal on the basis of a new or not previously reviewed bias or conflict of interest. The hearing officer will rule on any such challenge unless the hearing officer is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by an Administrative Facilitator assigned by the Title IX Coordinator.

The administrative facilitator will attend to, among other things logistics of rooms for various parties/witnesses as they wait; the flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

Investigator presents the final investigation report

The investigator will summarize the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the hearing officer and the parties (through their advisors). The investigator will be present during the entire hearing process.

Neither the parties, advisors, nor the hearing officer may ask the investigator their opinion regarding credibility, recommended findings, or determinations.

Testimony and questioning

Once the investigator presents their report and is subjected to questions during the hearing, the parties and witnesses, if any, may provide relevant information in turn.

The testimony begins with the complainant, and then in the order determined by the hearing officer. The parties and witnesses will submit to questioning by the hearing officer and then by the parties through their advisors ("cross-examination").

All questions are subject to a relevance determination by the hearing officer. The advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing. Orally is the default, but the hearing officer may permit other means of submission upon request or as agreed to by the parties and the hearing officer. The proceeding will pause to allow the hearing officer to consider the question, and the hearing officer will then determine whether the question will be permitted, disallowed, or rephrased.

At the discretion of the hearing officer, the hearing officer may explore arguments regarding relevance with the advisors. The hearing officer will then state their decision on the question for the record and advise the party or witness to whom the question was directed, accordingly. The hearing officer will explain any decision to exclude a question as not relevant or to the request to reframe the question for relevance.

The hearing officer will limit or disallow questions that are deemed irrelevant, unduly repetitious, or abusive. The hearing officer has the final say on all questions and determinations of relevance, subject to any appeal. The hearing officer may consult with legal counsel on any questions of admissibility. The hearing officer may ask advisors to explain why a question is or is not relevant from their perspective. The hearing officer will not entertain further argument from the advisors on relevance once the hearing officer has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an investigator or hearing officer at the hearing, the hearing officer may elect to address those issues, consult with legal counsel, and refer them to the Title IX Coordinator, or preserve them for appeal. If bias is not in issue at the hearing, the hearing officer will not permit irrelevant questions that probe for bias.

Refusal to submit to cross-examination and inferences

When party or witness is not available for cross-examination

If a party or witness chooses not to submit to cross-examination at the hearing due to absence or refusal to participate in cross-examination questioning, then the hearing officer will not rely on any prior statement made by that party or witness in order to reach a final determination. The hearing officer must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

When the witness provides partial answers

If the party or witness attends the hearing and answers only some questions, statements related to the questions they refuse to answer will not be considered.

Statements are the subject of the complaint

If the statements of the party who is absent or refusing to submit to cross-examination or refusing to attend the hearing are the subject of the complaint itself (e.g., the case is about verbal Harassment or a quid pro quo offer), then those statements are not precluded from admission.

The hearing officer will not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

Charges from violations of other school policies

If charges of policy violations other than sexual misconduct are considered at the same hearing, the hearing officer may:

- Consider all evidence they deem relevant.
- May rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties (through their advisors).
- Draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

Advisor decorum during hearing

If an advisor refuses to comply with the school's established rules of decorum for the hearing, the school may require the party to use a different advisor. The school will provide a replacement advisor if needed.

If a party, party advisor, or witness refuses to comply with the rules of decorum, the participant will be subject to school discipline in accordance with applicable code of conduct policies. In addition, such conduct may cause a delay in the hearing.

Recording hearings

The school will record all hearings, even if the hearing is in person. The parties may not record the proceedings, and no other unauthorized recordings are permitted.

The hearing officers, the parties, their advisors, and appropriate school administrators will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording.

Appendix K: Tier II Hearing Procedures

Referral to a Tier II hearing

If the informal resolution or mediation process is inappropriate or unsuccessful, and/or the school or one of the parties requests a hearing, the school will conduct a review hearing.

Written statements

The complainant and respondent may provide a written response to the investigation report, as well as any additional information relevant to the case, to the hearing officer. complainant and respondent will have the opportunity to review all materials submitted to the hearing officer.

Witnesses

At least three days before the hearing, the complainant and respondent may identify witnesses to provide testimony at the hearing. The Title IX Coordinator must be notified of the witnesses' names and their relevance to the case. If the Title IX Coordinator determines that the witnesses have no direct relevance to the case's facts, the witnesses may be disallowed.

Hearing date notice

The complainant and respondent will have at a minimum of five days advance notice of the scheduled hearing date. The notice period may be shortened or extended in emergency circumstances or with agreement of all parties and subject to school breaks.

Participants

Hearings are closed proceedings. Participants who may be present during the hearing include:

- Hearing officer.
- Complainant (with advisor only when the respondent is not present).
- Respondent (with advisor only when the complainant is not present).
- Witnesses (only when called by hearing officer).
- Investigator.
- Hearing facilitator.
- The Title IX Coordinator may be present to observe and/or answer policy-related or hearing process questions from the hearing officer.

Appendix K: Tier II Hearing Procedures

- In some cases, the school may provide subject matter experts to the hearing officer. These experts will not speak to individual cases. Their role is to provide expert information in response to queries from the hearing officer.
- School legal counsel or designee, if requested by the hearing officer.

If all parties agree, respondent and complainant may be present at the same time.

Order of proceedings

At all times, the hearing officer will ask all the questions. The review hearing will generally proceed in the following order:

1. Investigator introduces the investigation report
2. Hearing officer directs questions to the investigator
3. Complainant questions directed to the investigator
4. Respondent questions directed to the investigator
5. Complainant statement
6. Hearing officer questions directed to the complainant
7. Respondent questions directed to the complainant
8. Respondent statement
9. Hearing officer questions directed to the respondent
10. Complainant questions directed to the respondent
11. Witness statements
12. Hearing officer questions directed to the witnesses
13. Complainant questions directed to witnesses
14. Respondent questions directed to witnesses
15. Final questions directed to the complainant and respondent
16. Complainant closing statement
17. Respondent closing statement
18. Closed deliberations by the hearing officer

The complainant and respondent may submit questions to the hearing officer in writing. The hearing officer has the discretion to revise the questions submitted. The hearing officer may also reject questions for lack of relevance. The hearing officer may determine the relevance of, restrict, or exclude any witnesses or information presented. If questions are revised or rejected, the hearing officer will document the reasoning for the decision in writing at the time of the hearing.

Attendance

If the complainant or respondent cannot attend the hearing, alternative means for participation will be identified.

Appendix K: Tier II Hearing Procedures

Typically, the complainant and respondent are not in the hearing room simultaneously, although this may be waived if both parties agree. The complainant and respondent, along with their advisors, when not before the hearing officer, will be able to listen to the proceedings via speakerphone or other appropriate means (e.g., closed-circuit TV, live streaming).