

# The University of Southern California

## Policy on Prohibited Discrimination, Harassment, and Retaliation

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To implement this Policy, the University has developed formal and informal processes to investigate or otherwise address reports of Prohibited Conduct. The University maintains the following distinct resolution processes for resolving a report or Formal Complaint of Prohibited Conduct under this Policy:

- [Resolution Process for Discrimination, Harassment, and Retaliation](#)
- [Resolution Process for Sexual Misconduct.](#)

# The University of Southern California

## Policy on Prohibited Discrimination, Harassment, and Retaliation<sup>1</sup>

### **I. Statement of Values**

The University of Southern California (University) believes that all members of the University community, including students, faculty, staff, patients, and visitors, should pursue their work, education, and engagement in University programs and activities in a safe environment, free from discrimination and harassment based on protected characteristics, and retaliation. The purpose of this Policy is to prevent and respond to discrimination and harassment for all protected characteristics for all students, faculty, staff, patients, and visitors. The University is an equal-opportunity educator and employer, proudly pluralistic, and firmly committed to providing equal opportunity for persons of all backgrounds and a diverse, inclusive, equitable environment. The University is committed to providing a safe and transparent University community where discrimination, harassment, and retaliation are universally recognized as intolerable, where those who are harmed are provided support and resolution options, and where a fair and impartial resolution process is provided to all parties. To this end, the University places great emphasis on those values and virtues that connect us as human beings and members of the Trojan Family. Those shared values, as well as the beliefs, actions, and associated behaviors that support those values, contribute to a University culture that prioritizes diversity, inclusivity, accessibility, integrity, respect, and accountability. The University enthusiastically and fully supports the principles in this Policy, and expects that every person associated with the University will give continuing support to its implementation.

It is the responsibility of every member of the University community to foster an environment free from discrimination, harassment, and retaliation. All members of the community are strongly encouraged to take reasonable and prudent actions to prevent or stop acts of discrimination, harassment, or retaliation. This may include directly intervening when safe to do so, enlisting the assistance of others, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive responsibility will be supported by the University and protected from retaliation.

### **II. Notice of Non-discrimination, Non-Harassment, and Non-Retaliation**

The University prohibits discrimination on the basis of actual or perceived race, color, ethnicity, religion (including religious dress and grooming practices), creed, sex, age (40 years and over), marital status, national origin, citizenship status, employment status, income status, ancestry, military status, partnership status, medical condition (including cancer and genetic characteristics), pregnancy (including childbirth, breastfeeding, or related medical conditions), disability, political belief or affiliation, domestic violence victim status, military or veteran status, sexual orientation, gender, gender identity, gender expression, genetic information, and any other class of individuals protected from discrimination under federal, state, or local law, regulation, or ordinance (Protected Characteristics), and their implementing regulations, in any of its education programs and

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<sup>1</sup> This Policy and accompanying Resolution Processes apply to any report or Formal Complaint received on or after August 14, 2020, regardless of when the conduct reportedly occurred.

activities, in employment and application for employment, in admission and application of admission, and in all other University programs and activities, in compliance with Title IX of the Education Amendments of 1972 and its implementing regulations, 20 U.S.C. 1681 *et seq.*; Title III of the Americans with Disabilities Act of 1990, as amended in 2008; Section 504 of the Rehabilitation Act of 1973; Title VI and VII of the Civil Rights Act of 1964; the Age Discrimination Act of 1975; the Age Discrimination in Employment Act of 1967; Executive Order 11246 of 1965, as amended by Executive Order 11357 of 1967; the California Fair Employment and Housing Act; and other federal, state, and local laws, regulations, or ordinances that prohibit discrimination.

The University seeks to comply with all statutes prohibiting discrimination in education, even when such laws and regulations may conflict with each other. Further, in compliance with Section 504 of the Rehabilitation Act of 1973, the University provides reasonable accommodations for students, employees, and applicants for admission or employment who have disabilities. The University provides reasonable accommodations for religious beliefs to students, faculty, and staff. For questions about the application of these federal laws, please contact the Vice President for Equity, Equal Opportunity, and Title IX (VP of EEO-TIX) or the ADA/504 Coordinator. The University's Associate Vice Provost, Institutional Accessibility and ADA Compliance serves as its ADA/504 Coordinator.

The University also prohibits unlawful harassment in any form, including, but not limited to, *Quid Pro Quo* Harassment and Hostile Environment Harassment, both of which are forms of Discrimination based on Protected Characteristics, and Title IX Sexual Harassment. Sexual Harassment, as defined by the Title IX regulations, includes Sexual Assault, Dating Violence, Domestic Violence and Stalking, as defined by the Jeanne Clery Disclosure of Campus Security Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA). The University also prohibits other forms of Sexual Misconduct, including Sexual and Gender-Based Harassment; Nonconsensual Viewing, Recording, and Dissemination; Exposure; Complicity; and Violation of a University Directive. In this Policy and accompanying Resolution Processes, these forms of conduct are referred to collectively as Prohibited Conduct (all of which are defined below).

In addition, the University prohibits Retaliation against any individual for the purpose of interfering with any right or privilege secured by this Policy or federal or state laws, or because the individual makes a good faith report of Prohibited Conduct, files a Formal Complaint, testifies, assists, participates, or refuses to participate in any manner in an investigation, proceeding, or hearing related to a report or Formal Complaint of prohibited conduct under this Policy.

This Policy applies to all students, staff, faculty, and other individuals participating in or seeking to participate in the University's program or activities, including education and employment. Any individual found responsible for engaging in Prohibited Conduct in violation of this Policy will face disciplinary sanctions up to and including expulsion (for students) or termination from employment (for employees).

### **III. Academic Freedom and Free Speech**

Just as the University is committed to securing for its students, faculty, and staff a safe educational and work environment free of harassment, it is equally committed to maintaining academic freedom, as declared in Section 3-b(1)(a) of the Faculty Handbook, and free speech, consistent with Federal and state law. Our academic community also recognizes that when harassment is committed against students or faculty, it threatens their academic freedom. The University recognizes that students are exposed to thought-provoking ideas as part of their educational experience, and some of these ideas may challenge their beliefs and may lead a student to claim that an educational experience is offensive. Therefore, allegations of harassment involving elements of speech that arise in the educational context will be considered in keeping with the University's commitment to academic freedom and free speech. As a protected right under California state law, speech may not subject a currently enrolled student to discipline unless that speech rises to a legal standard of being *unprotected*. For additional information, see SCampus, Part D, Free Expression and Dissent.

### **IV. Scope**

This Policy applies broadly to the entire University community, including students who are registered or enrolled in University classes or in one of the University's degree or non-degree programs (Students);<sup>2</sup> all full-time and part-time faculty (Faculty); all non-faculty University employees, including University Staff, Keck Medicine employees, professional research staff, and post-doctoral fellows (Staff); and contractors, vendors, visitors, guests, or other individuals who are participating in or seeking to participate in the University's education program or activities. (Third Parties).

This Policy also applies to Student Organizations, defined as one which (a) has satisfied the administrative procedures for recognition or (b) is functioning within the University community in the capacity of a student organization.

This Policy applies to acts of Prohibited Conduct committed by Students, Student Organizations, Faculty, Staff, and Third Parties that occur within the University's education programs or activities, including employment and admissions.

In this Policy, the individual reported to have experienced Prohibited Conduct is referred to as the Reporting Party.<sup>3</sup> The individual who is reported to have committed Prohibited Conduct is referred to as the Respondent.

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<sup>2</sup> A student is defined as one whose enrollment has begun (typically, enrollment begins on the first scheduled day of classes of a student's program), and who (a) is currently participating in one of the University's degree or non-degree programs; (b) has completed the immediately preceding semester and/or has registered for the next scheduled semester; (c) is officially representing the University during a period between regular academic semesters; and/or (d) is not officially registered for a particular semester but who has a continuing relationship with the University.

<sup>3</sup> The U.S. Department of Education uses the term Complainant to refer to the individual who is reported to have experienced Sexual Misconduct. The University chooses to use the term Reporting Party, which should be read as synonymous with Complainant under the Title IX regulations; a Reporting Party has all of the same rights and procedural protections as a Complainant under Title IX's implementing regulations.

The term “education program or activity,” whether in singular or plural form, includes all of the University’s operations, including locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the conduct occurred; and any building owned or controlled by a student organization that is officially recognized by the University. The University’s education program or activity can include on-campus, off-campus, or online conduct, and applies to employment and admissions. Examples include University-sponsored, University-funded or otherwise University-supported study off campus, research, internship, mentorship, summer session, conferences, meetings, social events, or other affiliated programs or premises.

The Policy also applies to Prohibited Conduct that occurs outside of the United States, but in connection with the University’s education program or activities, such as University-sponsored, University-funded, or otherwise University-supported study abroad programs.

Under limited circumstances, the Policy and the Resolution Process may also apply to instances in which the conduct occurred outside of the education program or activity, but where the University otherwise regulates the conduct, the conduct has or could have a continuing impact within the University’s education program or activity, or the conduct may have the effect of posing a serious threat to the University community.

#### **A. Federal Jurisdictional Requirements Unique to Title IX Sexual Harassment**

The Title IX regulations apply to specific forms of sexual harassment that occur in an education program or activity in the United States. Where conduct occurs outside of the education program or activity, outside of the United States, or would not meet the definition of Title IX Sexual Harassment, the University is required to dismiss any allegations in a Formal Complaint under Title IX.

However, in keeping with the University’s educational mission and commitment to foster a learning, living, and working environment free from discrimination, harassment, and retaliation, the University will move forward under the same resolution process for Sexual and Gender-Based Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and other forms of Prohibited Conduct that occur outside of Title IX Jurisdiction (*e.g.*, not in the United States, or as noted above, outside of the education program or activity).

#### **B. Applicability to Third Parties**

Any individual, including a Third Party, may make a report to the University of Prohibited Conduct committed by a Student, Faculty, or Staff member and receive access to reasonably available supportive measures. A Third Party who is participating in, or attempting to participate in, the University’s education program or activity may also file a Formal Complaint requesting an investigation under this Policy when the Respondent is a current University Student, Faculty, or Staff member. In addition, the VP of EEO-TIX has the discretion, in consultation with relevant University stakeholders, to file a Formal Complaint on behalf of a Third Party where the Respondent is a current University Student, Faculty, or Staff member and the reported conduct has or could have a continuing impact on the University’s education program or activity, including employment and admissions. In such circumstances, the VP of EEO-TIX does not become a party.

The University's ability to take disciplinary action against a Third Party Respondent will be limited and is determined by the context of the Prohibited Conduct and the nature of the University's relationship to the Third Party Respondent. The University will determine the appropriate manner of resolution, which may include referral to local law enforcement or to the home school or employer of the Third Party Respondent, and/or restriction from access to campus or University programs or activities.

## **V. Intersection and Coordination with Other Policies and Procedures**

Reports of Prohibited Conduct may sometimes implicate conduct prohibited by another University policy. For example, Student, Staff, and/or Faculty conduct is also governed by the following University policies:

- [SCAMPUS](#)  
Applies to all other forms of student misconduct
- [Staff Complaint Process](#)  
Outlines the staff complaint process for all other forms of misconduct
- [Faculty Handbook](#)  
Sets the standards of personal conduct for faculty members
- [Consensual Relationships Policy](#)  
Defines prohibited relationships between employees and students
- [Protecting Minors Policy](#)  
Outlines the university policies regarding the protection of minors
- [Mandated Reporters: I](#)  
Identifies mandated reporters and outlines reporting requirements for suspected child abuse or neglect

Individual academic programs may also require students to adhere to certain standards of professional conduct as set forth in program-specific student handbooks. Where conduct involves the potential violation of both this Policy and another University policy arising from the same or similar set of facts and circumstances, the University has the discretion to investigate and resolve the conduct under the Resolution Processes set forth in this Policy, provided that doing so does not unduly delay a prompt and equitable resolution of the report and that the parties are provided timely notice of this decision and an opportunity to respond. Where the definitions conflict, the definitions in this Policy will control.

## **VI. Contact for Questions About this Policy**

The University has appointed a Vice President for Equity, Equal Opportunity, and Title IX (VP of EEO-TIX) to coordinate the University's compliance with federal and state civil rights laws,

including Title IX.<sup>4</sup> The VP of EEO-TIX is responsible for coordinating the provision of comprehensive education and training; coordinating the University's timely, thorough, and fair response, investigation, and resolution of all reports of Prohibited Conduct under this Policy; and monitoring the effectiveness of this Policy and Related Processes, as well as education and training programs, to ensure a safe, non-discriminatory, non-harassing, non-retaliatory, and inclusive University environment.

The name and contact information of the University's Vice President for Equity, Equal Opportunity, and Title IX is:

Catherine Spear

Vice President for Equity, Equal Opportunity, and Title IX

**Office for Equity, Equal Opportunity, and Title IX**

USC Credit Union Building

3720 South Flower Street, 2nd Floor

Los Angeles, CA 90089-0704

213-740-5086

<http://usceotitleix.wpengine.com/>

[titleix@usc.edu](mailto:titleix@usc.edu) (for all inquiries, reports, or complaints regarding Title IX or sexual harassment)

[eeotix@usc.edu](mailto:eeotix@usc.edu) (for all inquiries, reports, or complaints regarding this Policy or other forms of Prohibited Conduct)

[vpeetix@usc.edu](mailto:vpeetix@usc.edu) to reach the VP of EEO-TIX

Concerns about the University's application of this Policy and compliance with certain federal laws (*e.g.*, Title IX, Title VI, Section 504, the ADA, and the Age Act), may also be addressed to the U.S. Department of Education, Office for Civil Rights at:

San Francisco Office

Office for Civil Rights (OCR)

U.S. Department of Education

50 United Nations Plaza

Mail Box 1200, Room 1545

San Francisco, CA 94102

Telephone: 415-486-5555

Facsimile: 415-486-5570

TDD: 800-877-8339

[ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)

In addition, University employees may file reports and/or complaints of discrimination with:

California Department of Fair Employment and Housing (DFEH)

[contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

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<sup>4</sup> In the Title IX regulations and in its Dear Colleague Letter on Title IX Coordinators (2015), the U.S. Department of Education indicates that universities should appoint at least one person responsible to coordinate compliance with Title IX (*i.e.*, a "Title IX Coordinator"). At the University, the VP of EEO-TIX currently serves the role of the Title IX Coordinator, and also coordinates the University's broad civil rights obligations that include, but are not limited to, Title IX.

1-800-884-1684 (TTY 1-800-700-2320)  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)

United States Equal Employment Opportunity Commission (EEOC)  
1-800-669-4000 (TTY 1-800-669-6820)  
[www.eeoc.gov](http://www.eeoc.gov)

Any person who believes that the University as a federal contractor has violated non-discrimination or affirmative action obligations may contact the Office of Federal Contract Compliance Programs (OFCCP) at 1-800-397-6251 (TTY: 1-202-693-1337).

## **VII. Definitions of Prohibited Conduct**

Prohibited Conduct includes the following forms of conduct, including attempts to commit the conduct:

### **1. Discrimination:** Discrimination can take two primary forms:

#### **a. Disparate Treatment Discrimination**

Disparate treatment discrimination is any unlawful distinction, preference, or detriment to an individual as compared to others that is based on an individual's Protected Characteristic(s)<sup>5</sup> and that: 1) excludes an individual from participation in; 2) denies the individual benefits of; 3) treats the individual differently; or 4) otherwise adversely affects a term, condition, or benefit of an individual's employment, education, living environment, or participation in a University program or activity.

#### **b. Disparate Impact Discrimination**

**Employment:** In the employment context, disparate impact discrimination occurs when there is sufficient evidence that policies, tests, or practices that are neutral on their face disproportionately exclude or adversely impact a group of individuals within the class of individuals with Protected Characteristics, where the policies, tests, or practices are not job-related and consistent with business necessity. In determining whether a facially-neutral policy has a disparate impact on the basis of Protected Characteristics, the University considers the following issues:

(1) Does the policy, test, or practice have a disparate impact on the basis of a particular Protected Characteristic? This typically requires a statistical analysis.

(2) Is the policy, test, or practice job-related and consistent with business necessity?

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<sup>5</sup> For definitions of the Protected Characteristics covered by this Policy, please see Appendix A to this Policy.

(3) If job-related and consistent with business necessity, is there a less discriminatory alternative available?

**Student/Educational Program or Activity:** In the student or educational context, disparate impact discrimination occurs when there is sufficient evidence that facially-neutral policies, tests, or practices, although not adopted with the intent to discriminate, nonetheless have an unjustified effect of disproportionately excluding or adversely impacting Students or Third Parties on the basis of Protected Characteristics. In determining whether a facially-neutral policy has a disparate impact on the basis of Protected Characteristics, the University engages in the following three-part inquiry:

- (1) Has the policy, test, or practice resulted in an adverse impact on Students or Third Parties of a particular Protected Characteristic?
- (2) Is the policy, test, or practice necessary to meet an important educational goal?
- (3) If necessary to meet an important educational goal, are there comparably effective alternative policies, tests, or practices available that would meet the stated educational goal with less of a burden or adverse impact on the disproportionately affected Protected Characteristic, or is the proffered justification a pretext for discrimination?

In addition to the above, discrimination includes failing to provide reasonable accommodations, consistent with state and federal law, to a qualified individual with a disability or to accommodate the religious beliefs of students, staff, and faculty.

Examples of potential discrimination under this Policy include but are not limited to those that result in the interference with, limitation of, or denial of access to:

- An employee's, or applicant for employment's, access to employment or terms, conditions, and/or benefits of employment (e.g., hiring, advancement, assignment).
- A student's, or admission applicant's, ability to participate in, access, or benefit from educational programs, services, or activities (e.g., admission, academic standing, grades, assignment, campus housing; athletics).
- An authorized volunteer's ability to participate in a volunteer activity.
- A guest's or visitor's ability to participate in, access, or benefit from the University's programs or activities.

**2. Hostile Environment Harassment:** Harassment occurs when verbal, physical,

written, electronic, or other conduct based on an individual's Protected Characteristics<sup>6</sup> is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or denies that individual's ability to participate in or benefit from the University's educational program or activity, employment access, benefits, or opportunities, or other University programs and activities (*e.g.*, campus housing, official University list-servs, University-sponsored platforms), when viewed from both a subjective and objective perspective.

In evaluating whether a hostile environment exists, the University will evaluate the totality of known circumstances, including, but not limited to: the nature, frequency, intensity, location, context, and duration of the conduct; whether the conduct was physically threatening; the effect of the conduct on the Reporting Party's mental or emotional state; whether the conduct was directed at more than one individual; whether the conduct arose in the context of other discriminatory conduct; whether the conduct unreasonably interfered with the Reporting Party's educational or work performance and/or University's programs or activities; whether the conduct implicates academic freedom or protected speech; and other relevant factors that may arise from consideration of the reported facts and circumstances. Hostile environment harassment does not need to be directed at a specific person to be a violation of this Policy.

Examples of conduct that may constitute hostile environment harassment based on a Protected Characteristic include but are not limited to:

- Ridicule, abuse, insults, or derogatory comments that are directly or indirectly based on a protected characteristic.
- Offensive remarks about an individual's looks, clothing, hair, or body parts, that relate to a protected characteristic.
- Offensive comments about an individual's racial, ethnic, or religious characteristics.
- Disparaging or offensive remarks about an individual's gender, gender identity, gender expression, or sexual orientation, whether or not sexual in nature.
- Disparaging or offensive comments about an individual's religious beliefs or affiliations, or lack of religious beliefs or affiliations.
- Expressing negative stereotypes about an individual based on Protected Characteristics (*e.g.*, gender, country of birth, ancestry, citizenship, race), including acts of cultural appropriation.

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<sup>6</sup> Please note that this definition does not apply to Title IX Sexual Harassment, which has a different definition under the new Title IX regulations that is separately included in this Policy. All forms of harassment under this Policy, however, will be addressed through the same Resolution Processes.

- Disparaging, intimidating, or offensive references to an individual’s disability, record of disability, or perceived disability.
- Disparaging or offensive racial or ethnic remarks, including racial or ethnic slurs, jokes, or epithets.
- A course of conduct of pursuing, following, waiting, or showing up uninvited at or near places frequented by the Reporting Party.
- Unwelcome touching and physical conduct.
- Inappropriate displays of sexually explicit objects, pictures, cartoons, posters, computer screen savers, websites, movies, drawings, or sexual gestures.

This Policy is written and interpreted broadly to include unwelcome conduct that occurs online or through other technology or electronic forms of communication (*e.g.*, email, instant messages, direct messages, iMessages, text messages, blogs, pictures, videos, postings on social media), provided that it occurs within the scope and jurisdiction articulated in this Policy. For example, online conduct occurring completely outside of the University’s education program or activity may only be addressed where the University otherwise regulates the conduct, the conduct has or could have a continuing impact within the University’s education program or activity, or the conduct may have the effect of posing a serious threat to the University community.

The VP of EEO-TIX, in partnership and consultation with relevant stakeholders, may address unprofessional, disrespectful, and/or offensive conduct that: 1) does not rise to the level of creating a hostile environment or a violation of this Policy, or 2) is of a generic nature not clearly based on a Protected Characteristic; and 3) runs counter to the University’s mission and values. Addressing such behaviors will not typically result in the imposition of discipline or other punitive measures under this Policy, but may be addressed through restorative remedial actions, such as coaching, education, and/or effective conflict resolution or other alternative resolution mechanisms. However, the University reserves the right to take any action it deems, in its sole discretion, appropriate in response to such behaviors.

3. ***Quid Pro Quo Harassment:*** *Quid pro quo* harassment occurs when submission to or rejection of unwelcome conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual’s education (*e.g.*, admission, academic standing, grades, assignment); employment (*e.g.*, hiring, advancement, assignment); or participation in a University program or activity (*e.g.*, campus housing).<sup>7</sup>

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<sup>7</sup> Please note that this definition does not apply to Title IX Sexual Harassment, which has a different definition under the final Title IX regulations and is defined separately in this Policy.

- 4. Title IX Sexual Harassment:** Title IX’s implementing regulations<sup>8</sup> define Sexual Harassment as conduct on the basis of sex that satisfies one or more of the following:
- a. A University employee conditions the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct;
  - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity; or
  - c. Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation, as defined below.
- 5. Sexual Assault:** Sexual assault is having or attempting to have sexual contact with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity (*see below for definition of consent and incapacitation*).<sup>9</sup> Sexual contact includes:
- a. sexual intercourse (anal, oral, or vaginal), including penetration with a body part (*e.g.*, penis, finger, hand, tongue) or an object, or requiring another to penetrate themselves with a body part or an object, however slight; or
  - b. sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual’s body for the purpose of sexual gratification.
- 6. Dating Violence:** includes any act of violence committed by an individual:
- a. who is or has been in a social relationship of a romantic or intimate nature with the Reporting Party; and
  - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship;
    - ii. The type of relationship; and
    - iii. The frequency of interaction between the individuals involved in the

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<sup>8</sup> The Title IX regulations have requirements that apply to a specific definition and category of Title IX Sexual Harassment that constitutes only one form of Prohibited Conduct under this Policy. In light of these Title IX-mandated requirements, the University, where appropriate, provides information that is specific to Sexual Harassment, as defined under the Title IX regulations. However, the University has the discretion to continue to address and respond to allegations of Sexual and Gender-Based Harassment and other forms of sexual misconduct that fall outside the scope of Title IX Sexual Harassment—and does so pursuant to this Policy and related Resolution Processes.

<sup>9</sup> The statutory definition of sexual assault referenced by the Title IX regulations also includes having or attempting to have sexual contact between individuals who are related to each other within the degrees of relationship where marriage is prohibited by law.

relationship.

7. **Domestic Violence:** includes any act of violence committed by a current or former spouse or intimate partner of the Reporting Party, by an individual with whom the Reporting Party shares a child in common, by a person who is cohabitating with, or has cohabitated with, the Reporting Party as a spouse or intimate partner, by a person similarly situated to a spouse of the Reporting Party under California state law, or by any other individual against an adult or minor Reporting Party who is protected from that individual's acts under California state law.
8. **Stalking:** Stalking occurs when an individual engages in a course of conduct directed at a specific individual under circumstances that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress.

“Course of conduct” means two or more instances, including but not limited to unwelcome acts in which an individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property.

“Substantial emotional distress” means significant mental suffering or anguish.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

## 9. Other Forms of Sexual Misconduct

- a. **Sexual and Gender-Based Harassment:** Consistent with Title VII of the Civil Rights Act of 1964, as well as the recognition that Sexual and Gender-Based Harassment may also occur in a wider variety of contexts involving both students and employees, the University also defines Sexual and Gender-Based Harassment to include any sexual advance, request for sexual favors, or other unwelcome conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, electronic, or otherwise (*sexual harassment*); or, any act of intimidation or hostility, whether verbal or non-verbal, graphic, physical, or otherwise based on sex or gender, sexual orientation, gender identity, or gender expression, even if the acts do not involve conduct of a sexual nature (*gender-based harassment*); when one or more of the following conditions are present:
  - i. Submission to or rejection of such conduct is either an explicit or implicit term or condition of, or is used as the basis for decisions affecting, an individual's educational environment, employment, living environment, appointment, admission, or academic evaluation (*quid pro quo harassment*); this form of harassment is not limited to employee-employee conduct (*e.g.*, the president of a student organization promises another student entry to the organization if the student submits to

unwelcome sexual advances) (see *Quid Pro Quo Harassment* above);  
or

- ii. The conduct is sufficiently severe, pervasive, or persistent that it has the purpose or effect of unreasonably interfering with, limiting or depriving an individual from participating in or benefiting from the University's learning, working, or living programs under both a subjective and objective perspective (see *Hostile Environment Harassment* above).

**b. Nonconsensual Viewing, Recording, and Dissemination:** This type of conduct involves one or more of the following behaviors committed for any purpose, including sexual arousal or gratification, financial gain, or other personal benefit:

- i. Observing or recording by any means the nudity or sexual activity of another without the knowledge and consent of all individuals involved;
- ii. Allowing another to observe or record the nudity or sexual activity of another without that person's knowledge and consent;
- iii. Sharing images or recordings of the nudity or sexual activity of another without that person's knowledge and consent.

**c. Exposure:** Exposure of the genitals to another without that individual's consent under circumstances where there is not a reasonable expectation of privacy.

**d. Other Forms of Dating and Domestic Violence:** In addition to the definitions above, which require an act of violence to establish Dating Violence or Domestic Violence, the University also prohibits non-physical conduct that would cause a reasonable person to be fearful for their safety. Examples include economic abuse and behavior that intimidates, frightens, or isolates; conduct can involve one act or an ongoing pattern of conduct.

In evaluating non-physical conduct, the University considers whether the conduct is sufficiently severe, persistent or pervasive that it (i) unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the university's education or employment programs, activities, or living environment or (ii) causes substantial emotional distress. The totality of known circumstances, including the nature, frequency, intensity, location, context, and duration of the conduct, will be considered from both a subjective and objective perspective.

**10. Retaliation:** Retaliation means any adverse action, intimidation, threat, coercion, or discrimination against an individual taken for the purpose of interfering with any right or privilege secured by this Policy or federal, state, or local laws or ordinances, and their implementing regulations (*e.g.*, protesting, making a report), or because the

individual has made a report or Formal Complaint of Prohibited Conduct, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding or hearing under this policy. Retaliation includes such conduct through associates or agents of a Reporting Party, Respondent, or participant in any investigation or proceeding related to this Policy.

- 11. Complicity:** Complicity is any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.
- 12. Violation of a University Directive:** Any individual may be found in violation for failure to comply with a University directive regarding a restrictive supportive measure (e.g., violating the terms of an Avoidance of Contact Directive).

### **VIII. Consent and Incapacitation**

- 1. Consent:** Consent must be affirmative. “Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is positive cooperation in act and attitude made with knowledge and agreement to the nature of the act.

Consent cannot be obtained through physical force, threats, or coercion, or by taking advantage of another person’s incapacitation. Coercion is conduct, including intimidation or express/implied threats of immediate or future physical, emotional, financial, or reputational harm to the Reporting Party or another, which would place a reasonable person in fear they will be injured or harmed if they do not submit.

It is the responsibility of each individual involved to ensure they have the affirmative consent of the other(s) to engage in each act of sexual activity.

#### ***Additional Guidance about Consent:***

- Consent can be given by clear words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity.
- Affirmative consent must be ongoing throughout the sexual activity and can be revoked at any time. Sexual contact must cease immediately once consent is withdrawn and clearly communicated.
- Consent cannot be inferred from silence, passivity, or lack of verbal or physical resistance. Relying on nonverbal communication alone may result in a violation of this Policy.
- Consent cannot be inferred from an existing or previous dating relationship. The existence of a prior or current relationship does not, in itself, constitute consent; even in the context of a relationship, there must be real-time and mutual consent to sexual activity.

- There must be mutual consent to engage in the sexual activity each time it occurs.
- Consent to one form of sexual activity does not imply or constitute consent to another form of sexual activity.
- Consent to engage in sexual activity at one time is not consent to engage in the same or different sexual activity at a different time.
- Consent to engage in sexual activity with one individual is not consent to engage in sexual activity with another.

**2. Incapacitation:** Consent cannot be obtained by taking advantage of another individual's incapacitation. Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. An individual who is incapacitated is not capable of giving valid, affirmative consent.

Incapacitation means an individual cannot understand the fact, nature, or extent of the sexual activity. An incapacitated individual lacks the physical and mental capacity to make informed, reasonable judgments about whether or not to engage in sexual activity. An individual who is incapacitated may not be able to understand where they are, whom they are with, how they got there, or what is happening.

Further, an individual may be incapacitated as a result of consumption of alcohol, medication, or drugs. When alcohol, medication, or other drugs are involved, incapacitation is a state of intoxication or impairment that is so severe that it interferes with an individual's capacity to make informed and knowing decisions. Impairment must be significant enough to render an individual unable to understand the fact, nature, or extent of the sexual activity.

Alcohol and other drugs impact each individual differently, and determining whether an individual is incapacitated requires an individualized determination. The University does not expect Students, Faculty, or Staff to be medical experts in assessing incapacitation. Individuals should look for common and obvious warning signs that show that an individual may be incapacitated or approaching incapacitation. An individual's level of intoxication is not always demonstrated by objective signs; however, some signs that an individual may be incapacitated include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility.

Another effect of excessive alcohol consumption can be memory impairment or an inability to recall entire or partial events (sometimes referred to as "black-out" or "brown-out"). An individual may experience this symptom while appearing to be functioning "normally," including communicating through actions or words that can reasonably and objectively be interpreted as communicating consent to engage in

sexual activity. Total or partial loss of memory, alone, may not be sufficient, without additional evidence, to prove that an individual was incapacitated under this Policy. Whether sexual activity under these circumstances constitutes Prohibited Conduct depends on the presence or absence of the outwardly observable factors indicating that an individual is incapacitated, as described above.

An individual's level of intoxication may change over a period of time based on a variety of individual factors, including the amount of substance intake, speed of intake, body mass, height, weight, tolerance, quantity and pattern of food and sleep, drinking pattern, and metabolism. It is critical, therefore, that any individual engaging in sexual activity is aware of both their own and the other individual's level of intoxication and capacity to give consent.

*In evaluating affirmative consent in cases involving incapacitation, the University considers the totality of available information in determining two issues:*

- i. Did the Respondent know the Reporting Party was incapacitated?; or, if not,
- ii. Would a sober, reasonable individual in a similar set of circumstances as the Respondent have known that the Reporting Party was incapacitated?

If either question is answered positively, affirmative consent was absent, and the conduct is likely a violation of this Policy.

- 3. Reasonable Belief in Affirmative Consent:** A Respondent may indicate that they had a reasonable belief in affirmative consent as a defense to sexual assault. In evaluating whether a Respondent's belief was plausible and reasonable, the University will consider the totality of circumstances, including information known to the Respondent, as well as information that should reasonably have been known to the Respondent. The University will evaluate whether the communication (through clear words and/or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with similar identities) as a willingness to engage in a particular sexual act.

Belief in affirmative consent is not reasonable if it arose from a Respondent's voluntary intoxication or recklessness, and such intoxication is not an excuse for engaging in Prohibited Conduct. Further, such belief is not reasonable if reasonable steps are not taken to determine affirmative consent.

## **IX. Privacy and Confidentiality**

The University is committed to protecting the privacy of all individuals involved in the reporting, investigation, and resolution of a report of Prohibited Conduct under this Policy. All employees who are involved in the University's response to reports of Prohibited Conduct receive specific training and guidance about safeguarding private information in accordance with state and federal law.

It is important to understand that privacy and confidentiality have distinct meanings under this Policy.

**Privacy** refers to the discretion that will be exercised by the University in the course of any investigation or disciplinary processes under this Policy. Information related to a report of Prohibited Conduct will be handled discreetly and shared with a limited group of University officials who need to know in order to assist in the assessment, investigation, or resolution of the report and related issues. Taking into consideration the wishes of the Reporting Party, the University will make reasonable efforts to address and/or investigate reports of Prohibited Conduct under this Policy. If the report proceeds to an investigation, information may be disclosed to participants as necessary to facilitate the thoroughness and integrity of the investigation. In all such proceedings, the University will maintain the privacy of the parties to the extent reasonably possible.

**Confidentiality** refers to the level of protection that must be applied to statutory protections provided to individuals who disclose information in legally-protected or -privileged relationships, including, for example, relationships with professional mental health counselors, medical professionals, attorneys, and ordained clergy (Confidential Resources). These Confidential Resources must maintain the confidentiality of communications disclosed within the scope of their provision of professional services. Information shared by an individual with a Confidential Resource, on campus or in the community, intended as a confidential communication, cannot be revealed to any other individual without the express permission of the individual seeking the services, unless there is an imminent threat of harm to self or others, or the conduct involves suspected abuse of a minor. When a report involves suspected abuse of a minor under the age of 18, these Confidential Resources are required by state law to notify child protective services and/or local law enforcement. Similarly, in California, all medical providers are required to notify law enforcement when they receive a report of sexual assault.

Similarly, medical and counseling records cannot be released without the individual's written permission or unless permitted or required consistent with ethical or legal obligations. Individuals who wish to seek confidential assistance may do so by speaking with a Confidential Resource.

**Release of Information by the University:** Pursuant to the Clery Act, the University must disclose statistics about Clery Act crimes in its daily crime log and Annual Security Report and provide those statistics to the U.S. Department of Education. If a report of Sexual Assault, Dating Violence, Domestic Violence or Stalking discloses a serious or continuing threat to the campus community, the University will issue a timely notification to the community to protect the health and safety of the community as required by the Clery Act. In all of these instances, the information is reported in a manner that does not include personally identifying information about persons involved in an incident, unless identification of a Respondent is required by the timely warning. In addition, Confidential Resources may submit anonymous statistical information for Clery Act purposes, unless they believe it would be harmful to their client, patient, or student.

The University will not release the name of the Reporting Party, the Respondent, or witnesses to the general public, except as otherwise permitted or required by law. The University will also maintain the confidentiality of any supportive measures provided to a Reporting Party, to the extent that maintaining such confidentiality would not impair the University's ability to provide the supportive measures. The University may also share non-personally identifying information about reports received in aggregate form, including data about outcomes and sanctions. All University proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act (as amended by VAWA), Title IX, state and local law, and University policy.

## **X. Reporting Responsibilities of University Employees (Staff and Faculty)**

### **A. Designated Employees**

Designated University employees are required to report Prohibited Conduct to the VP of EEO-TIX to ensure that the University has a comprehensive process for centralized reporting and responding appropriately to notice of sex discrimination. Employees with reporting responsibilities include: faculty, academic advisors, and staff employees, including student employees who hold supervisory positions. In addition, teaching assistants, research assistants, and residential assistants, although not employees, are required to report Prohibited Conduct to the VP of EEO-TIX. A designated employee who is informed of a report of Prohibited Conduct is required to immediately share the report with the VP of EEO-TIX. This duty applies no matter how the information is learned, whether from direct report from a Reporting Party, from social media, or from a concerned third party. The failure by a designated employee to make a timely report of Prohibited Conduct may subject the employee to discipline, up to and including termination and notation in their personnel file. Questions regarding reporting responsibilities should be directed to the VP of EEO-TIX at [vpeotix@usc.edu](mailto:vpeotix@usc.edu) or (213) 740-5086.

In addition, all University supervisors are required to promptly inform the VP of EEO-TIX after completing an employee's performance evaluation, if the evaluation reveals that: 1) an oral or written report or complaint of sex discrimination was provided to the supervisor, or 2) information arises during the performance evaluation that suggests possible sex discrimination by the employee. Further, the supervisor must document this information in the employee's personnel file. The failure to take the foregoing actions may subject the supervisor to discipline, up to and including termination, or other personnel action.

### **B. Confidential Resources**

As described above, University employees who serve as Confidential Resources are prohibited from sharing information unless required or permitted to do so by law or ethical obligations. Information shared with Confidential Resources when they are acting in the scope of their profession, will not be disclosed to the VP of EEO-TIX or any other University official, without the express written permission of the individual seeking services or as otherwise provided by law.

### **C. Campus Security Authorities**

Some employees, because of their role on campus, also have reporting responsibilities under the Clery Act. Employees who are considered Campus Security Authorities (CSAs) have a duty to report Sexual Assault, Dating Violence, Domestic Violence, Stalking, and other Clery Act-defined crimes. This reporting helps to provide the community with a clear picture of the extent and nature of campus crime in order to ensure greater community safety and enable campus community members to make important decisions about their own safety. CSAs include Department of Public Safety personnel, external security staff (*e.g.*, CSC personnel (Yellow Jackets) and Staff Pro personnel), Student Affairs Council members, Student Judicial Affairs and Community Standards staff, VP of EEO-TIX and Equity, Equal Opportunity, and Title IX Office staff, Clery Coordinator and staff, resident assistants, residence coordinators, assistant directors, faculty in residence, Athletic department coaches, trainers and directors, Directors and Assistant Directors, and Deans and Assistant Deans, as well as other officials with significant responsibility for student and campus activities.

### **D. Mandated Reporters**

The University complies with California state law requirements under the Child Abuse and Neglect Reporting Act (CANRA) and the Welfare and Institutions Code. Designated University employees are required to report known or suspected abuse, molestation or neglect relating to children, elders or dependent adults to the Department of Children and Family Services Child Protection Hotline at (800) 540-4000 or local law enforcement, as well as to USC's Department of Public Safety (DPS). For more information, please visit <https://policy.usc.edu/mandated-reporters/>.

### **E. Other Reporting Responsibilities**

For other responsibilities, see Reporting Wrongdoing at <https://policy.usc.edu/reporting-wrongdoing/>.

## **XI. Resources**

The University encourages anyone who has experienced Prohibited Conduct to reach out to available resources. The University recognizes that a Reporting Party may have different needs at different times. A Reporting Party does not need to know whether they wish to request any particular course of action or how to label what happened in order to make a report. Individuals who are uncertain about what they wish to do in response to an incident of Prohibited Conduct, including how or whether to report the conduct, may contact and consult a Confidential Resource to address questions and concerns in a confidential setting. Individuals with questions or concerns about the University's processes may also contact the VP of EEO-TIX directly to learn more about available resources and options.

The following section outlines emergency, confidential, and private resource options.

### **A. Emergency Resources**

All individuals who experience Prohibited Conduct are encouraged to seek immediate medical treatment and preserve physical evidence, even if they have not decided whether they wish to

pursue any campus or law enforcement action. Such action helps to ensure that a Reporting Party receives proper medical care, preserves any available evidence, and supports their opportunity to access a disciplinary or criminal action at a later time. Available resources include:

- **Los Angeles Police Department**  
911 (for emergencies)  
1-877-ASK-LAPD (24-hour, non-emergency number)
- **Department of Public Safety**  
<https://dps.usc.edu/>  
UPC: (213) 740-4321  
HSC: (323) 442-1000
- **Engemann Student Health Center** – Confidential  
<https://studenthealth.usc.edu/>  
University Park Campus  
1031 West 34<sup>th</sup> St.  
Los Angeles, CA 90089  
[studenthealth@usc.edu](mailto:studenthealth@usc.edu)  
(213) 740-9355 (WELL)
- **Eric Cohen Student Health Center** – Confidential  
<https://studenthealth.usc.edu/>  
Health Sciences Campus  
1510 San Pablo St. Suite 104  
Los Angeles, CA 90033  
[studenthealth@usc.edu](mailto:studenthealth@usc.edu)  
(213) 740-9355 (WELL)
- **Los Angeles County Medical Center** – Confidential  
<http://dhs.lacounty.gov/wps/portal/dhs/lacusc>  
(323) 409-1000
- **Santa Monica Rape Treatment Center**  
Provides free confidential treatment for sexual assault victims, including 24-hour emergency medical care with forensic exam and proper preservation of evidence.  
<https://www.uclahealth.org/santa-monica/rape-treatment>  
(310) 319-4000

## **B. Confidential University Resources**

Confidential Resources on campus and in the community include:

- **Relationship and Sexual Violence Prevention and Services (RSVP)**  
Provides direct support to Reporting Parties, including crisis appointments, group therapy, discussions of reporting options, and support surrounding academic accommodations.  
<https://studenthealth.usc.edu/sexual-assault/>

USC Student Health's Engemann Student Health Center Suite 356  
(213) 740-9355 (WELL)

- **Counseling and Mental Health**  
Provides counseling and support for students, including direct support to both Reporting Parties and Respondents  
<https://studenthealth.usc.edu/counseling/>  
(213) 740-9355
- **Center for Work and Family Life for employees**  
<http://cwfl.usc.edu/>  
(213) 821-0800

### C. Private University Resources

In addition, the following campus offices can provide assistance to students, faculty, and staff:

- **Office for Equity, Equal Opportunity, and Title IX**  
USC Credit Union Building  
3720 South Flower Street, 2nd Floor  
Los Angeles, CA 90089-0704  
213-740-5086  
[http://usceotitleix.wpengine.com/  
titleix@usc.edu](http://usceotitleix.wpengine.com/titleix@usc.edu) (for all inquiries, reports, or complaints regarding Title IX or sexual harassment)  
[eeotix@usc.edu](mailto:eeotix@usc.edu) (for all inquiries, reports, or complaints regarding this Policy or other forms of Prohibited Conduct)  
[vpeeotix@usc.edu](mailto:vpeeotix@usc.edu) to reach the VP of EEO-TIX
- **Department of Public Safety**  
<https://dps.usc.edu/>  
UPC: (213) 740-6000 (24 hour, non-emergency number)  
HSC: (323) 442-1200 (24 hour, non-emergency number)
- **Campus Support & Intervention**  
In consultation with the VP of EEO-TIX, provides direct support to Reporting Parties, Respondents, or other students who are involved in reports of Prohibited Conduct. This support includes Avoidance of Contact Directives; help with accommodations; help with taking a voluntary leave of absence from the University; and connecting to other available support services and resources.  
<https://campussupport.usc.edu/>
- **Student Affairs**  
<https://studentaffairs.usc.edu/>
- **Residential Life**  
<https://admission.usc.edu/live/residential-life/>

- **Human Resources**

In consultation with the VP of EEO-TIX, provides direct support to Reporting Parties, Respondents, or other employees who are involved in reports of Prohibited Conduct. This support includes Avoidance of Contact Directives; help with employment accommodations; help with taking a voluntary leave of absence from the University; and connecting to other available support services and resources.

<https://svphr.usc.edu/>

- **Provost**

<https://www.provost.usc.edu/>

## **XII. Supportive Measures, Emergency Removal, and Administrative Leave**

### **A. Supportive Measures**

Supportive measures are non-disciplinary, non-punitive, individualized support services that are offered as appropriate, as reasonably available, and without fee or charge to a Reporting Party, before or after filing a Formal Complaint or where no Formal Complaint has been filed, and to a Respondent after a Formal Complaint has been filed. Supportive measures may be made available to the parties at any point after a report and throughout the resolution processes. Such measures are designed to restore or preserve equal access to the University's education programs and activities without unreasonably burdening the other party, and include measures designed to protect the safety of all parties or the University's educational environment, or to deter Prohibited Conduct.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties,<sup>10</sup> changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, or other similar measures.

The University will consider a number of factors in determining which supportive measures to take, including the needs of the student or employee seeking supportive measures; the severity or pervasiveness of the alleged Prohibited Conduct; any continuing effects on the Reporting Party; whether the Reporting Party and the Respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the Reporting Party (*e.g.*, protective orders). The University will work in good faith to implement the requirements of judicially-issued protective orders and similar orders, to the extent it has authority to do so.

The VP of EEO-TIX is responsible for ensuring the implementation of supportive measures and coordinating resources with the appropriate offices on campus. The University will maintain the

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<sup>10</sup> One-Way Avoidance of Contact Directives are permitted in limited circumstances, including to help enforce a restraining order, preliminary injunction, or other order of protection issued by a court, or if a one-way no-contact order does not unreasonably burden the other party.

confidentiality of any supportive measures provided under this Policy to the extent practicable and will promptly address any violation of supportive measures.

The University will also provide reasonably available supportive measures for third parties who either are Reporting Parties or Respondents, provided that the supportive measures are within the scope of that individual's relationship to the University, and taking into account any contractual relationship with the University.

### **B. Emergency Removal**

Certain circumstances may warrant removing a student Respondent from a University program or activity. The University may remove a student Respondent on an emergency basis from University property or employment, education, or research programs or activities. Before imposing an emergency removal, the University will undertake an individualized analysis of safety and risk for the campus community to determine whether the Respondent's presence in the program or activity poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct, and justifies removal of the Respondent from the University program or activity. In making this determination, the VP of EEO-TIX may consult with campus partners who review interim actions or conduct threat assessments.

The VP of EEO-TIX will promptly provide the Respondent with written notice of any removal and an opportunity to challenge the removal. During any challenge, the Respondent will remain off campus and must comply with the notice of removal. That notice shall include a statement that any information the Respondent chooses to provide may subsequently be used in implementing any aspect of this Policy, including the investigation and adjudication of the allegations of Prohibited Conduct. The Respondent will have 72 hours from the date of the removal to submit a written challenge to the safety and risk analysis to the VP of EEO-TIX.

### **C. Administrative Leave**

Following a report of Prohibited Conduct, the University may place a non-student employee Respondent on administrative leave, with or without pay. In reaching a determination as to administrative leave, the VP of EEO-TIX will consult with the Respondent's immediate supervisor or designee, the Senior Vice President for Human Resources, or the Provost.

## **XIII. Reporting Options**

### **A. Reporting to the University**

The University encourages anyone who has experienced Prohibited Conduct to report it directly to the VP of EEO-TIX or the Equity, Equal Opportunity, and Title IX Office (EEO-TIX Office). Any individual may make a report of Prohibited Conduct under this Policy regardless of affiliation with the University and regardless of whether the individual reporting is the individual alleged to be the subject of the conduct. Reports can be made in person, by mail, by telephone, or by electronic mail, or by any other means that results in the VP of EEO-TIX receiving the verbal or written report. A report may be made at any time (including during non-business hours) using the telephone number, email address, or office mailing address for the VP of EEO-TIX, listed below:

Vice President for Equity, Equal Opportunity, and Title IX  
**Office for Equity, Equal Opportunity, and Title IX**

USC Credit Union Building  
3720 South Flower Street, 2nd Floor  
Los Angeles, CA 90089-0704  
213-740-5086

<http://usceotitleix.wpengine.com/>

[titleix@usc.edu](mailto:titleix@usc.edu) (for all inquiries, reports, or complaints regarding Title IX or sexual harassment)

[eeotix@usc.edu](mailto:eeotix@usc.edu) (for all inquiries, reports, or complaints regarding this Policy or other forms of Prohibited Conduct)

[vpeeotix@usc.edu](mailto:vpeeotix@usc.edu) to reach the VP of EEO-TIX

The University recognizes that deciding whether to make a report of Prohibited Conduct is a personal decision. Making a report is different from filing a Formal Complaint. When the University receives a report of Prohibited Conduct, the University will offer supportive measures to the Reporting Party, inform the Reporting Party of the availability of supportive measures with or without the filing of a Formal Complaint, and explain to the Reporting Party the process for filing a Formal Complaint. The University will consider the Reporting Party's wishes with respect to supportive measures and seek to respect a Reporting Party's autonomy in making the determination regarding how to proceed. In limited circumstances, the VP of EEO-TIX may file a Formal Complaint initiating an investigation into reported conduct. Additional information about the circumstances that might require this action is detailed in the Resolution Processes.

When a report is made to the University, the Reporting Party will receive written notification about existing counseling, health, mental health, support and advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services, both within the University and in the local community.

## **B. Time Frame for Reporting**

Reporting Parties and witnesses are encouraged to report Prohibited Conduct as soon as possible in order to maximize the University's ability to respond promptly and effectively. Although the University does not limit the timeframe for reporting, the passage of time may impact or limit the University's jurisdiction and/or ability to gather relevant evidence that may be lost due to the passage of time.

Depending on the relationship of the Respondent to the University, the University also may not have the authority to impose disciplinary action; this may occur when a student Respondent has graduated or an employee Respondent is no longer employed by the University. If the Respondent is no longer affiliated with the University, the University will still provide reasonably available supportive measures to the Reporting Party, assist the Reporting Party in identifying external reporting options, and may take other appropriate action to address the reported conduct.

### **C. Anonymous Reporting**

An individual may anonymously report Prohibited Conduct to the University by contacting the VP of EEO-TIX or the EEO-TIX Office. Providing personally identifiable information is not required to make a report. Depending on the amount of information available about the incident and/or the individuals involved, the University's ability to respond to an anonymous report may be limited.

Anonymous reports to the University regarding students can also be made using the Trojans Care 4 Trojans (TC4T) electronic reporting form or by texting 274637 (start the message with TC4T followed by a space). TC4T is an anonymous reporting system that allows any individual to complete an online report regarding a student of concern. Once submitted, the report is automatically sent to Campus Support & Intervention for response and intervention. Campus Support & Intervention will route any report of Prohibited Conduct to the VP of EEO-TIX. Information regarding the TC4T report and how to access the online form is available at <https://uscsa.usc.edu/trojans-care-4-trojans/>. The TC4T form is not intended to be used as a reporting mechanism for faculty and staff employees with reporting responsibilities who are mandated to report all potential Prohibited Conduct to the VP of EEO-TIX.

Anonymous reports can also be made to the Department of Public Safety through the LiveSafe mobile safety app, by contacting the USC Help and Hotline at 213-740-2500 (staffed by live operators 24 hours a day, 7 days a week) or by visiting MyComplianceReport, an online reporting site maintained by a third-party company for the purpose of gathering information regarding compliance and ethics concerns.

### **D. Amnesty**

The University encourages good faith reports of Prohibited Conduct under this Policy. To that end, the University will not pursue disciplinary action for illegal consumption of alcohol or drugs in violation of the Student Handbook against a student enrolled in the University who makes a good faith report to the University as a Reporting Party, or who is a witness to an incident of Prohibited Conduct. This amnesty applies only to conduct occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the investigation. See SCampus for the Medical Amnesty/Good Samaritan Policy.

### **E. Coordination with Law Enforcement**

A Reporting Party has the right to report, or decline to report, potential criminal conduct to law enforcement. Upon request, the University will assist a Reporting Party in contacting law enforcement at any time. Under limited circumstances where there is a threat to the health or safety of any University community member, the University may independently notify law enforcement. An individual may make a report to the University, to law enforcement, to neither, or to both. The University's resolution process and law enforcement investigations may be pursued simultaneously, but will operate independently of one another. The University will, when appropriate, coordinate information with law enforcement if law enforcement is notified. The University, upon request, may also temporarily pause its investigation to allow preliminary fact-gathering by law enforcement.

## **F. Obligation to Provide Truthful Information**

All University community members are expected to provide truthful information in any proceeding under this Policy. Submitting or providing deliberately false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are erroneous or are not later substantiated.

## **XIV. Overview of Resolution Processes**

To implement this Policy, the University has developed formal and informal processes to investigate or otherwise address reports of Prohibited Conduct. Because the regulatory requirements for resolution processes are more prescriptive under Title IX than other forms of harassment, discrimination, or retaliation, the University maintains the following two distinct resolution processes for resolving a report or Formal Complaint of Prohibited Conduct under this Policy:

- Resolution Process for Discrimination, Harassment, and Retaliation; and
- Resolution Process for Sexual Misconduct.

In all formal and alternative resolution processes, the University will treat Reporting Parties and Respondents equitably by offering supportive measures to a Reporting Party when the University has notice of potential Prohibited Conduct, and by following the resolution process before the imposition of any disciplinary sanction against a Respondent. Upon receipt of a report of Prohibited Conduct, the University will conduct an initial assessment of the available information and consider the Reporting Party's stated interests, as well as the University's compliance obligations, in determining how to proceed. A report of discrimination, harassment, or retaliation, including Title IX Sexual Harassment, may be resolved through: the provision of supportive measures only; a formal resolution process, which involves a prompt, thorough, equitable, and impartial investigation, a live hearing in certain instances, and an appeal; or an alternative resolution process, which requires the voluntary and written consent of the Reporting Party and the Respondent. A Reporting Party is always entitled to reasonably available supportive measures, regardless of whether a formal or alternative resolution process has been initiated.

## **XV. Prevention and Education Programs**

The University is committed to the prevention of Prohibited Conduct through regular and ongoing education and awareness programs. All incoming students and new employees (faculty and staff) receive primary prevention and awareness programming, and returning students and current employees receive ongoing training and related programming.

For a description of the University's Prohibited Conduct prevention and awareness programs, including programs on minimizing the risk of incidents of Prohibited Conduct and bystander intervention, see the University's annual Clery reports.

Individuals involved in the implementation of this Policy also receive regular, comprehensive training on this Policy and Resolution Processes, which incorporates all required training content, including specific training required by the Clery Act and Title IX.<sup>11</sup>

## **XVI. Documentation and Records Retention Policies**

The University will create and maintain the following records for a period of seven years: records of any actions, including any supportive measures, taken in response to a report or Formal Complaint of Prohibited Conduct; records of investigations, including any determination regarding responsibility and any audio or audiovisual recording(s) or transcript(s) created, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Reporting Party; any appeal and the result of that appeal; and any informal or alternative resolution, and the result of such resolution processes. These records will be maintained in accordance with the privacy protections set forth in Title IX, Title VII, the Clery Act, FERPA, and applicable state law regarding the privacy of personnel records.

## **XVII. Review of Policy**

This Policy reflects the University's good faith effort to implement the newly-promulgated legal requirements under the Title IX regulations issued in May 2020, and to conform the obligations imposed under those new regulations with other federal laws, including the Clery Act, as well as state law applicable to students and employees. The University reserves the right to modify this Policy and the accompanying procedures as necessary to comply with federal or state law, and such modifications may be made before or during an ongoing resolution process.

Given the evolving nature of the legal requirements applicable to Prohibited Conduct, and the desire to provide accessible, effective, and legally-complaint policies and procedures, the VP of EEO-TIX will review this policy on at least an annual basis. The review will take into consideration evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution process. The review will include the opportunity for individuals affected by the Policy to provide feedback and will incorporate an aggregate view of reports, resolution, and climate. The VP of EEO-TIX will publish an aggregate report of this review that protects individual privacy while still providing meaningful information to the University community.

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<sup>11</sup> As required by the Title IX regulations, training required of – and received by – University officials involved in responding to reports of Title IX Sexual Harassment is published online,

**The University of Southern California**  
**Resolution Process for Discrimination, Harassment and Retaliation**

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# The University of Southern California

## Resolution Process for Discrimination, Harassment and Retaliation

### **I. Introduction**

The University of Southern California (University) is committed to providing a prompt and equitable response to all reports and Formal Complaints of Discrimination, Harassment, and Retaliation, all of which fall under the University's definitions of Prohibited Conduct under the Policy on Prohibited Discrimination, Harassment, and Retaliation (Policy). The University's Resolution Processes for addressing Prohibited Conduct are grounded in fairness and support for all parties, as well as include procedural protections that ensure notice, equitable opportunities to participate, and a neutral and impartial investigation, resolution, and appeal. The definitions for specific forms of Prohibited Conduct and other core concepts are included in the Policy.

### **II. Scope**

This Resolution Process will be used to resolve reports and Formal Complaints of Discrimination Harassment, and Retaliation other than Sexual Misconduct.

This Resolution Process applies to reports and Formal Complaints against Students, Faculty, and Staff that occur within the University's education program or activity. In this Resolution Process, the individual reported to have experienced Prohibited Conduct is referred to as the Reporting Party. The individual who is reported to have committed Prohibited Conduct is referred to as the Respondent.

For reports of Formal Complaints against Third Parties, which include contractors, vendors, visitors, guests, or other individuals who are participating in or seeking to participate in the University's education program or activities, the University will determine the appropriate manner of resolution, which may include referral to local law enforcement or to the home school or employer of the Third Party Respondent, and/or restriction from access to campus or University programs or activities. The University's ability to take disciplinary action against a Third Party Respondent will be limited and is determined by the context of the Prohibited Conduct and the nature of the University's relationship to the Third Party Respondent.

The term "education program or activity," whether singular or plural, includes all of the University's operations, including locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization that is officially recognized by the University. Under limited circumstances, the Policy and this Resolution Process may also apply to instances in which the conduct occurred outside of the education program or activity, but where the University otherwise regulates the conduct, the conduct has or could have a continuing impact within the University's education program or activity, or the conduct may have the effect of posing a serious threat to the University community.

In the event any individual with a responsibility identified in the Policy or Resolution Process, including the Vice President for Equity, Equal Opportunity, and Title IX, Investigator, or Decision-

Maker, has a conflict of interest that would compromise that individual's objectivity in discharging that responsibility, the University will appoint a designee. Concerns about a potential conflict of interest involving an Investigator or other implementer should be raised with the VP of EEO-TIX. Concerns about a potential conflict of interest with the VP of EEO-TIX should be raised with the Senior Vice President for Human Resources.

### **III. Resources and Reporting Options**

#### **A. Reporting Options**

The University encourages anyone who has experienced Prohibited Conduct to report it directly to the Vice President for Equity, Equal Opportunity (VP of EEO-TIX) or Office for Equity, Equal Opportunity, and Title IX (EEO-TIX Office).<sup>12</sup> Any individual may make a report of Prohibited Conduct under this Policy regardless of affiliation with the University and regardless of whether or not the person reporting is the person alleged to be the individual impacted by the conduct. Reports can be made in person, by mail, by telephone, or by electronic mail, or by any other means that results in the VP of EEO-TIX or EEO-TIX Office receiving the verbal or written report. A report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the VP of EEO-TIX as follows:

Catherine Spear  
Vice President for Equity, Equal Opportunity, and Title IX  
**Office for Equity, Equal Opportunity, and Title IX**  
USC Credit Union Building  
3720 South Flower Street, 2nd Floor  
Los Angeles, CA 90089-0704  
213-740-5086  
<http://usceotitleix.wpengine.com/>  
[titleix@usc.edu](mailto:titleix@usc.edu) (for all inquiries, reports, or complaints regarding Title IX or sexual harassment)  
[eeotix@usc.edu](mailto:eeotix@usc.edu) (for all inquiries, reports, or complaints regarding this Policy or other forms of Prohibited Conduct)  
[vpeeotix@usc.edu](mailto:vpeeotix@usc.edu) to reach the VP of EEO-TIX

In addition, the University encourages anyone who experiences or witnesses an incident of Prohibited Conduct that may also violate criminal law to *immediately* report the incident to the Department of Public Safety or external law enforcement through the following reporting options:

- **Department of Public Safety**  
UPC: (213) 740-6000 (24 hour, non-emergency number)  
HSC: (323) 442-1200 (24 hour, non-emergency number)
- **Los Angeles Police Department**  
911 (for emergencies)

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<sup>12</sup> The VP EEO-TIX serves as the University's Title IX Coordinator. All references to the VP EEO-TIX include an appropriately trained and experienced designee.

1-877-ASK-LAPD (24-hour, non-emergency number)

A Reporting Party may choose to make a report to the University to pursue resolution under this Resolution Process and may also choose to make a report to external law enforcement. A Reporting Party may make a report to the University, to law enforcement, to neither, or to both. As set forth in the Policy, a Reporting Party has the right to report, or decline to report, potential criminal conduct to law enforcement.<sup>13</sup> Upon request, the University will assist a Reporting Party in contacting law enforcement at any time, regardless of whether the Reporting Party wishes to pursue a Formal Complaint under this Resolution Process. Under limited circumstances posing a threat to health or safety of any University community member or as required by the University's Memorandum of Understanding with the Los Angeles Police Department, the University will independently notify law enforcement. The University's resolution process and law enforcement investigations may be simultaneously pursued, but will operate independently of one another. The University will, when appropriate, coordinate information with law enforcement if law enforcement is notified.

## **B. Confidential Resources**

The University also offers access to Confidential Resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a report to the University. Confidential Resources include:

- **Relationship and Sexual Violence Prevention and Services (RSVP)**  
Provides direct support to Reporting Parties, including crisis appointments, group therapy, discussions of reporting options, and support surrounding academic accommodations.  
<https://studenthealth.usc.edu/sexual-assault/>  
USC Student Health's Engemann Student Health Center Suite 356  
(213) 740-9355 (WELL)
- **Counseling and Mental Health**  
Provides counseling and support for students, including direct support to both Reporting Parties and Respondents  
<https://studenthealth.usc.edu/counseling/>  
(213) 740-9355
- **Center for Work and Family Life**  
Provides support for employees  
<http://cwfl.usc.edu/>  
(213) 821-0800

## **IV. Role of the Advisor**

The Reporting Party and Respondent each have the right to be accompanied at any meeting or proceeding under the Policy and this Resolution Process by an advisor of their choice. The advisor

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<sup>13</sup> The University will comply with external reporting obligations under California state law related to known or suspected abuse, molestation or neglect relating to children, elders or dependent adults. For more information, please visit <https://policy.usc.edu/mandated-reporters/>.

may be any person, including an attorney, but need not be an attorney. The advisor may not otherwise be a party or witness involved in the investigation. A party may decline to use an advisor for all stages of the formal or alternative resolution process.

The Resolution Process is not a legal proceeding and, although a party may be advised by their advisor, the conduct of the advisor will be governed by the Policy and this Resolution Process. A party's advisor of choice may provide support and advice to the party at any meeting and/or proceeding, but they may not speak on behalf of the party or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings. The advisor may observe, provide support, and provide guidance or advice to the party (in a non-disruptive manner). The University may remove or dismiss advisors who do not abide by the restrictions on their participation or who are otherwise disruptive. An advisor may be asked to meet with a member of the EEO-TIX Office in advance of any meetings or proceedings to receive and acknowledge the University's overview of the Policy and Resolution Process, expectations of the role, privacy considerations, and appropriate decorum.

Generally, all communications between the EEO-TIX Office and a Reporting Party or Respondent will occur through the party directly, not the advisor, and the party, rather than the advisor, is required to submit any written correspondence or documents. Although a party may authorize the University to share information with their advisor by executing a Family Education Rights and Privacy Act (FERPA) waiver, the University is not required to do so. An advisor should plan to make themselves reasonably available for all meetings and proceedings. The University will not unduly delay the scheduling of meetings or proceedings based on the advisor's unavailability.

An advisor is entitled to review all information gathered in the investigation that is directly related to the allegations (as part of evidence review) and to access to the investigation report.

## **V. Initial Assessment**

### **A. Response to Report of Discrimination, Harassment or Retaliation**

Any person may report Discrimination, Harassment or Retaliation to the University's VP of EEO-TIX. Upon receipt of a report alleging Discrimination, Harassment or Retaliation, or an alleged violation of the Policy, the VP of EEO-TIX will conduct an Initial Assessment of the reported information and respond to any immediate health or safety concerns raised by the report. The VP of EEO-TIX will also promptly contact the Reporting Party to discuss:

- the availability of supportive measures with or without the filing of a Formal Complaint;
- the process for filing a Formal Complaint; and
- ascertain and consider the Reporting Party's wishes with respect to supportive measures.

A Reporting Party may request supportive measures only, may file a Formal Complaint, or may request more time to consider their options. Alternatively, as described below, the VP of EEO-TIX may determine that it is appropriate to file a Formal Complaint on behalf of a Reporting Party. After the filing of a Formal Complaint, the Reporting Party may decide to seek an alternative resolution in lieu of a formal resolution process (investigation and appeal). A Reporting Party is

always entitled to reasonably available supportive measures, regardless of whether a formal or alternative resolution process is initiated.

As part of the Initial Assessment, the VP of EEO-TIX will determine, in consultation with other need to know University officials as appropriate, whether the Policy applies to the report and whether the reported conduct falls within the jurisdiction and scope of the Policy.

## **VI. Intake Meeting**

The Initial Assessment typically includes an initial intake meeting (which may take place in person, by telephone, or via live technology), with the Reporting Party to understand the nature and circumstances of the report and to provide the Reporting Party with information about resources, including local law enforcement resources as applicable, procedural options, supportive measures, and an opportunity to discuss the Policy and these Procedures.

In addition to the intake meeting the University will provide the Reporting Party with written information about resources, procedural options for alternative and formal resolution, reasonably available supportive measures and the process for requesting and obtaining them, the range of disciplinary sanctions available upon a finding of responsibility for violating the Policy, the prohibition against retaliation, and how to report concerns of retaliation. The written information will also include information about campus and community resources and services, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other available services. This written information will also include a notification about the process for seeking disability-based accommodations, academic adjustments, and/or auxiliary aids under Section 504 of the Rehabilitation Act and/or the Americans with Disabilities Act, and/or other applicable federal, state, or local laws.

### **A. Overview of Initial Assessment**

As part of the Initial Assessment of the report, the VP of EEO-TIX will:

- Address immediate physical safety and emotional well-being of the Reporting Party or other campus community members and offer support and assistance;
- Notify the Reporting Party of the availability of medical and counseling resources to address physical and mental health concerns;
- Notify the Reporting Party of the importance of preservation of evidence, including examples of the types of evidence to preserve;
- Notify the Reporting Party of the right to contact or decline to contact law enforcement, and if requested, assist them with notifying law enforcement;
- Conduct an individualized analysis of safety and risk for the campus community to determine whether a Student Respondent's presence in the program or activity poses an immediate threat to the physical health or safety of any student, faculty, staff, or other individual such that it justifies emergency removal;

- Conduct an individualized analysis of safety and risk for the campus community to determine the need for administrative leave for an Employee Respondent;
- Consult with the University's threat assessment team as necessary and appropriate;
- Promptly contact the Reporting Party to discuss the availability of supportive measures;
- Consider the Reporting Party's wishes with respect to supportive measures;
- Assess the nature and circumstances of the report based on reasonably available information;
- Discuss the Reporting Party's expressed preference for manner of resolution (i.e., formal resolution in the form of an investigation or informal resolution) and any barriers to proceeding;
- Share information with the Department of Public Safety (DPS) to comply with Clery Act reporting requirements and timely warning assessment;
- Provide the Reporting Party with information about on- and off-campus support resources;
- Provide the Reporting Party with a copy of the Policy and an explanation of the procedural options, including seeking supportive measures, the process for filing a Formal Complaint, the formal resolution process, and alternative resolution;
- Inform the Reporting Party that they may seek an advisor of choice to assist them throughout the investigation and resolution of the report, that the advisor may accompany them to any meeting or proceeding under the Policy and Resolution Process;
- Assess for relevant evidence of a pattern or other similar conduct by the Respondent; and
- Explain the University's policy prohibiting Retaliation and that the University will take prompt appropriate action in response to the known circumstances of any report of alleged Retaliation.

## **B. Formal Complaint**

The formal resolution process (*i.e.*, investigation and appeal) is initiated by the filing of a Formal Complaint. A Formal Complaint is a written document submitted to the VP of EEO-TIX by the Reporting Party alleging that a Respondent engaged in Discrimination, Harassment or Retaliation and requesting an investigation. The Formal Complaint may be submitted to the VP of EEO-TIX in person, by mail, or by electronic mail, using the Formal Complaint form [include link]. The

Reporting Party may also contact the VP of EEO-TIX directly for assistance in making a Formal Complaint. At the time of filing the Formal Complaint, the Reporting Party must be participating in or attempting to participate in the University's education program or activity. In addition, the VP of EEO-TIX retains discretion, in consultation with relevant University stakeholders, to file a Formal Complaint on behalf of any individual. Where a Reporting Party files a Formal Complaint and requests an investigation, and the reported conduct falls within the scope and jurisdiction of the Policy, the EEO-TIX Office must pursue an investigation.

### **1. Dismissal**

The VP of EEO-TIX may dismiss a Formal Complaint, at any stage of the process, in any of the following three circumstances:

- 1) the Reporting Party notifies the VP of EEO-TIX in writing that the Reporting Party would like to withdraw the Formal Complaint or any of its allegations;
- 2) the Respondent is no longer enrolled or employed by the University; or
- 3) specific circumstances, including a Reporting Party's decision not to respond to outreach by the EEO-TIX Office, prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or its allegations.

The decision about whether to dismiss a Formal Complaint, in whole or in part, may be made at any stage in the process. Upon any dismissal, the VP of EEO-TIX will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. Either party may appeal the dismissal of some or all of the allegations in a Formal Complaint by notifying the VP of EEO-TIX in writing of the challenge within ten (10) calendar days of receipt of notification of the dismissal. The other party will be notified of the appeal. For more information about the appeals process, see Section X.Q.

A Reporting Party who withdraws a complaint may later request to reinstate or refile it, and a new initial assessment will be conducted.

### **2. VP of EEO-TIX Discretion to File Formal Complaint**

The VP of EEO-TIX also has the discretion, in consultation with relevant University stakeholders, to file a Formal Complaint on behalf of any individual. In evaluating the appropriate manner of resolution, including whether the VP of EEO-TIX will file a Formal Complaint in the absence of a Formal Complaint by the Reporting Party, the VP of EEO-TIX will consider the following list of risk factors:

- whether the Reporting Party has requested anonymity;
- whether the Reporting Party wants to participate in an investigation,;
- the totality of the known circumstances;
- the severity and impact of the alleged conduct on the Reporting Party and/or campus community members;

- whether the alleged conduct was committed with a weapon;
- the respective ages of the parties, including whether the Reporting Party is a minor (under the age of 18) or was a minor at the time of the alleged conduct;
- whether the Respondent has made any statements of admission or otherwise accepted responsibility for the alleged conduct;
- whether the alleged conduct involved physical violence (*i.e.*, exerting control over another person through the use of physical force, such as hitting, punching, slapping, kicking, restraining, strangling);
- whether the Respondent has a history of prior arrests or being the subject of prior reports or complaints of any form of Prohibited Conduct or has any history of violent behavior;
- whether the Respondent is alleged to have threatened to commit violence or any form of Prohibited Conduct;
- whether the alleged conduct was committed by multiple perpetrators;
- whether the report reveals a pattern of misconduct (*e.g.*, by the Respondent; at a particular location, event, or activity; by a particular group or organization);
- the existence of independent evidence that may be available without the participation of the Reporting Party;
- the scope and nature of prior remedial methods taken with the Respondent;
- whether the Respondent has a history of failing to comply with any University directives (*e.g.*, Avoidance of Contact Directive) or any judicial protective order;
- whether any other aggravating circumstances or signs of predatory behavior are present; and
- any other relevant and available information.

The EEO-TIX Office will take all reasonable steps to respond to the report in a manner that honors the Reporting Party's requested course of action, but its ability to do so may be limited based on the nature of the reported information. Where the VP of EEO-TIX files a Formal Complaint on behalf of the Reporting Party, the VP of EEO-TIX will inform the Reporting Party about the chosen course of action and the underlying rationale based on the risk factor listed above.

### **3. Consolidation of Formal Complaints**

The University may consolidate Formal Complaints against more than one Respondent, or by more than one Reporting Party against one or more Respondents, or by one party against the other party (*i.e.*, counterclaim), where the allegations of Discrimination, Harassment or Retaliation arise out of the same or substantially similar facts or circumstances. All parties will receive simultaneous,

timely notification of any such consolidation. During the course of the investigation, the investigation may reveal the existence of additional or different potential policy violations, which may also be consolidated following notification to the parties of the amended notice of investigation.

The University has an obligation to ensure that the formal resolution process is not abused for retaliatory purposes. The University permits the filing of counterclaims; however, it will use an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims determined based on the available information to be made in good faith (which is not the same as a determination as to whether they are substantiated or not) will be processed using this resolution process. Depending upon the timing and circumstances of such allegations, the VP EEO-TIX retains discretion to resolve such claims through the same investigation with the same investigator(s) or following resolution of the initial allegations that gave rise to the formal investigation, in which case a delay may occur. When counterclaims are not made in good faith, they may constitute retaliation in violation of the Policy.

**C. Determining the Scope and Manner of Resolution**

The VP of EEO-TIX will consider the nature of the report, the safety of the individual and the campus community, and the Reporting Party’s expressed preference for the manner of resolution in determining the appropriate course of action to achieve the goals of the Policy. The range of available resolution options include:

<p><b>No Further Action</b></p> <p>(which may involve referral to another University policy)</p>	<p><b>Supportive Measures Only</b></p> <p>(regardless of whether a Formal Complaint is filed)</p>	<p><b>Formal Resolution</b></p> <p>(following a Formal Complaint by the Reporting Party or VP of EEO-TIX)</p>	<p><b>Alternative Resolution</b></p> <p>(following a Formal Complaint by the Reporting Party or VP of EEO-TIX)</p>
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The Initial Assessment will proceed to the point where a reasonable individualized assessment of the safety of the Reporting Party and of the campus community can be made, and the VP of EEO-TIX, in consultation with other University stakeholders as appropriate, has sufficient information to determine the appropriate course of action. The VP of EEO-TIX will seek to complete the Initial Assessment as promptly as possible, typically within ten (10) calendar days of notice of the report or complaint. There may be circumstances, however, where the Initial Assessment takes longer based on the availability of the Reporting Party or other necessary information, the need to gather additional information, or other factors outside of the University’s control. The University also understands that a Reporting Party may engage in delayed decision-making, which may impact the timing of the conclusion of the Initial Assessment.

At the conclusion of the Initial Assessment, the Reporting Party will receive a written notice (*i.e.*, via email) of the determination about how the University will proceed. If the matter is proceeding via a Formal Complaint, the Respondent will also be notified and invited to participate in an intake

meeting that will cover the same type of information as is provided to the Reporting Party, including supportive measures.

## **VII. Supportive Measures**

### **A. Supportive Measures**

As set forth in the Policy, supportive measures are non-disciplinary, non-punitive, individualized support services that are offered as appropriate, as reasonably available, and without fee or charge to the Reporting Party when a report is received, whether or not a Formal Complaint is filed, and to Respondents after a Formal Complaint has been filed. Supportive measures are designed to address the physical safety and emotional well-being of the parties (and University community, as appropriate), as well as to restore or preserve equal access to the University's education (including employment and other University) programs and activities without unreasonably burdening the other party, or to deter Discrimination, Harassment or Retaliation.

Supportive measures may be temporary or permanent and may include, but not be limited to, the following:

- access to confidential counseling and providing assistance with scheduling initial appointments;
- arranging a meeting with appropriate law enforcement to discuss or report conduct and/or to discuss safety planning;
- assistance in seeking academic assistance, such as modified class schedules (including transfer to another section); permission to withdraw from and/or retake a class or attend a class via alternative means (*e.g.*, online or independent study), extensions of deadlines or other course-related adjustments, and voluntary leaves of absence;
- assistance in modifying University housing arrangements, including immediate temporary relocation to safe living quarters and/or permanent reassignment of University residence halls;
- assistance in modifying University employment conditions, such as changes in work schedules, job or supervisory assignments, work locations, and/or assigned parking;
- assistance in arranging campus escort services;
- imposition of a mutual Avoidance of Contact Directive (*i.e.*, a written directive to refrain from contact, directly or indirectly through a third-party proxy) to the parties,<sup>14</sup>

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<sup>14</sup> One-way Avoidance of Contact Directives are permitted in limited circumstances, including to help enforce a restraining order, preliminary injunction, or other order of protection issued by a court, or if a one-way No-Contact Directive does not unreasonably burden the other party.

- increased security and monitoring of certain areas of the campus; and
- any other similar measures that may be arranged by the University (to the extent reasonably available) to ensure the physical safety and emotional well-being of a Reporting Party or Respondent.

The VP of EEO-TIX will consider a number of factors in determining which supportive measures to take, including the needs of the student or employee seeking supportive measures; the severity or pervasiveness of the alleged misconduct; any continuing effects on the Reporting Party; whether the Reporting Party and the Respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the Reporting Party (*e.g.*, protective orders). The University will work in good faith to implement the requirements of judicially-issued protective orders and similar orders, to the extent that doing so is within its authority.

The VP of EEO-TIX is responsible for ensuring the effective implementation of supportive measures and coordinating resources with the appropriate offices on campus. The University will maintain the confidentiality of any supportive measures provided under the Policy to the extent practicable and will promptly address any violation of supportive measures. Allegations that a party has violated the terms of a supportive protective measure, including but not limited to an Avoidance of Contact Directive or other University directive, may constitute a violation of the Policy and may subject the individual who has been alleged to violate the supportive protective measure to disciplinary or administrative actions. The VP of EEO-TIX will determine and identify the appropriate procedures to be followed for such alleged violations depending on the timing and circumstances of the reported violation.

The VP of EEO-TIX will also provide reasonably available supportive measures for third parties, provided that the supportive measures are within the scope of that individual's relationship to the University.

## **B. Emergency Removal**

Certain circumstances may warrant removing a Student Respondent from a University program or activity on an emergency basis, typically in the form of an interim suspension. The University may remove a Student Respondent on an emergency basis from University property or employment, education, research programs or activities, or other University programs and activities. Before imposing an emergency removal, the University will undertake an individualized analysis of safety and risk for the campus community to determine whether the Respondent's presence in the University program or activity poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Discrimination, Harassment or Retaliation, and justifies removal of the Respondent from the University program or activity.

The VP of EEO-TIX will promptly provide the Reporting Party, where appropriate because the removal relates to them, and the Respondent with simultaneous written notice of the Emergency Removal, the effect of the Emergency Removal, the rationale for the Emergency Removal, and an opportunity for the Respondent to challenge the Emergency Removal. During any challenge, the Respondent will remain off-campus and must comply with the notice of Emergency Removal.

That notice will include a statement that any information the Respondent chooses to provide during the challenge may subsequently be used in implementing any aspect of this Policy, including the investigation and adjudication.

The Respondent will have 72 hours from the notice of Emergency Removal to submit a written challenge to the safety and risk analysis that forms the rationale for the Emergency Removal to the VP of EEO-TIX. The VP of EEO-TIX will assign the matter to be reviewed by the Vice President for Student Affairs or designee to evaluate the information in support of the individualized safety and risk analysis and any information provided by the Respondent and the Reporting Party, as applicable. The Vice President for Student Affairs will submit a final decision in writing to the Respondent and the Reporting Party within three (3) calendar days, with a copy to the VP of EEO-TIX.

### **C. Administrative Leave**

The University may place a non-Student Staff or Faculty Respondent on administrative leave, with or without pay, at any time. In reaching a determination as to administrative leave, the VP of EEO-TIX will consult with the Respondent's immediate supervisor or designee, the Senior Vice President for Human Resources, or the Provost.

## **VIII. Formal Resolution**

This formal resolution process is followed after the filing of a Formal Complaint by the Reporting Party or VP of EEO-TIX.

### **A. Expectations of the Parties**

During the formal resolution process, both the Reporting Party and Respondent can expect:

- a prompt, fair, impartial, thorough, and equitable investigation and resolution of allegations of Discrimination, Harassment or Retaliation conducted by individuals with sufficient training and/or experience related to their role;
- an investigator, decision-maker, and/or facilitator of alternative or formal resolution free from conflict of interest or bias for or against reporting parties or respondents generally or the individual parties related to the report or Formal Complaint;
- privacy, to the extent possible, in accordance with the Policy and any legal requirements;
- access to reasonably available supportive measures without fee or charge;
- the opportunity to request and receive reasonable accommodations for a disability or necessary language translation or interpreter services to ensure meaningful participation in any step of the proceedings under the Policy;
- freedom from Retaliation for making a good faith report of Discrimination, Harassment or Retaliation, or participating in any proceeding pursuant to the Policy;

- a presumption that the Respondent is not responsible until a determination is made at the conclusion of the formal resolution process;
- written notice of any meeting or proceeding at which the party's presence is contemplated by the Policy or this Resolution Process, including the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- freedom to discuss the allegations under investigation or to gather and present relevant evidence;
- the opportunity to be accompanied by an advisor of choice, including the right to have that advisor accompany the party at any meeting or proceeding;
- an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, by an impartial decision-maker;
- reasonably prompt time frames with permissible extensions for good cause;
- written notice of a Formal Complaint (*i.e.*, investigation), including notice of potential Policy violations and the nature of the alleged Discrimination, Harassment, or Retaliation;
- timely and equal access to any information that will be used during formal resolution pursuant to this process and any related meeting or proceeding under this Policy, including all information gathered that is directly related to the allegations in the formal complaint as well as the information contained in the investigation report;
- reasonable time to prepare any response contemplated by the formal resolution process;
- written notice of the outcome of any Formal Resolution, including the determination of a Policy violation, any sanctions, and the rationale; and
- the opportunity to appeal the outcome of the investigation, as described below.

## **B. Participation by the Parties Generally**

The Investigator may receive any information presented by the parties, but the Investigator, not the parties, is responsible for gathering relevant evidence. The Reporting Party and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, and other evidence, if available. The parties are encouraged to provide all relevant information as soon as possible to facilitate prompt resolution. In the event that a party declines to voluntarily provide material information or delays in doing so, the University's ability

to conduct a prompt, thorough, and equitable investigation may be impacted. The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, but the parties should be advised that doing so in a way that constitutes Harassment or Retaliation may subject them to additional policy violations.

### **1. Obligation to Provide Truthful Information**

All University community members are expected to provide truthful information in any report or proceeding under this Resolution Procedure and are further expected to cooperate in any such proceeding. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Discrimination, Harassment or Retaliation is prohibited and may lead to administrative or disciplinary action under other applicable University policy. This provision does not apply to reports made or information provided in good faith, even if the information alleged in the report is not later substantiated or no Policy violation is found to have occurred.

### **2. Obligation to Participate by University Employees**

The University expects all Faculty and Staff to cooperate fully in the investigation of Formal Complaints. In addition, except as limited under the Title IX regulations, Faculty and Staff may be required to participate in the investigation and resolution, and declining to cooperate in an investigation is subject to discipline up to and including termination of employment under other applicable University policy. The University will ensure that all participating Faculty and/or Staff are protected from retaliation for such participation.

### **C. Initiating an Investigation**

The VP of EEO-TIX will assign one or more trained investigators to conduct a prompt, thorough, fair, and impartial investigation. The Investigator may be a University employee or an external professional. The role of the Investigator will be to gather information through interviews of the Reporting Party, Respondent, and relevant witnesses and synthesize relevant information in a report that will be provided to the Reporting Party and the Respondent. The investigation report will include all relevant information provided by either party, including inculpatory and exculpatory information, that will be used in the determination of responsibility or sanction.

Any Investigator used by the University will receive annual training on the issues related to Discrimination, Harassment and Retaliation; the scope of the University's education program and activity (to include employment and other University programs and activities); and on how to conduct an investigation and resolution process that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of Reporting Parties while promoting accountability; how to create an investigation report that fairly summarizes relevant evidence; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The Investigator will be impartial and free from conflict of interest or bias.

#### **D. Notice of Investigation**

After a Formal Complaint is filed and accepted, the VP of EEO-TIX will simultaneously notify the Reporting Party and the Respondent, in writing, of the following information:

- 1) the process for formal and alternative resolution;
- 2) a meaningful summary of all allegations with sufficient details regarding:
  - a. the identity of the Reporting Party and the Respondent, if known;
  - b. the date, time (if known), location, and precise nature of the reported conduct;
- 3) specific potential Policy violation(s);
- 4) the name and contact information of the Investigator;
- 5) how to challenge participation by the Investigator on the basis of a conflict of interest or bias;
- 6) information about the parties' respective expectations and responsibilities;
- 7) the University's prohibition against Retaliation;
- 8) the importance of preserving any potentially relevant evidence in any format;
- 9) information about the privacy of the process;
- 10) information about how a party may request reasonable accommodations for a disability or language diversity during the process;
- 11) a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the formal resolution process;
- 12) that the parties are entitled to an advisor of their choice, including an attorney advisor, and the advisor is permitted to review the evidence gathered in the investigation that is relevant or directly related to the investigation;
- 13) that the University prohibits providing false or misleading information; and
- 14) a copy of the Policy and this Resolution Process.

If, at any time, the investigation reveals the existence of additional or different potential policy violations, including a violation of a supportive measure, the VP of EEO-TIX will promptly issue a supplemental notice of investigation to both parties detailing any additional allegations and corresponding potential Policy violations.

#### **E. Informational Meeting with the Respondent**

Upon the filing of a Formal Complaint and provision of the written notice of investigation, the University will provide outreach to a Respondent, in writing, to invite the Respondent to an informational meeting (in person or via live technology), similar to the intake meeting with the Reporting Party. The written communication will include notice of the date, time, location, participants, and purposes of the informational meeting, and will be provided with sufficient time for the Respondent to prepare to participate in the meeting. This meeting is informational in nature and is separate and distinct from a fact-gathering interview with the Investigator. At the informational meeting, the VP of EEO-TIX will provide the Respondent with information about resources, procedural options, and supportive measures, and an opportunity to ask any questions. In addition to the informational meeting, the University will provide the Respondent with written information about procedural options for alternative and formal resolution, reasonably available

supportive measures and the process for requesting and obtaining them, the range of disciplinary sanctions available upon a finding of responsibility for violating the Policy, the prohibition against retaliation, and how to report concerns of retaliation. The written information will also include information about campus and community resources and services, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other available services. Further, this written information will include a notification about the process for seeking disability-based accommodations, academic adjustments, and/or auxiliary aids under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and/or other applicable federal, state, or local laws, and/or other applicable federal, state, or local laws.

#### **F. Overview of Fact-Gathering Process**

During an investigation, the Investigator will seek to meet separately with the Reporting Party, Respondent, and relevant witnesses. The Investigator will send a written notice of the interview date, time, and location, name of participant(s) and purpose of the interview to the parties and witnesses, and any identified party advisor, in sufficient time for the party to prepare and participate. The Investigator will also independently gather other relevant information or evidence, including documents, photographs, communications between the parties, and medical records (subject to the consent of the applicable person), and other electronic records as appropriate, as well as identify relevant witnesses not identified by the parties.

The Investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. If a person voluntarily chooses to share medical or counseling records with the Investigator, they must sign a written consent that acknowledges that relevant information from the medical or counseling records must be shared with the other party to ensure the other party has notice of that information and an opportunity to respond.

At the conclusion of the investigation, the Reporting Party and the Respondent will both have the opportunity to review and respond to all information gathered in the investigation that is directly related to the allegations, including information shared by the Reporting Party or the Respondent during their interviews or through evidence either party provides or that the Investigator independently gathers.

The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the Investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

The Investigator may also consider information publicly available from social media or other online sources that comes to the attention of the Investigator. The EEO-TIX Office does not, however, actively monitor social media or online sources, and as with all potentially relevant information, the Reporting Party, Respondent, or witnesses are encouraged to bring online information to the attention of the Investigator.

The Investigator will seek to complete the fact-gathering stage of the investigation within sixty (60) to ninety (90) calendar days of the issuance of the notice of investigation. As detailed later in this process, the VP of EEO-TIX and the Investigator may grant limited extensions of time frames or temporary delays of the investigation for good cause with written notice to the Reporting Party and the Respondent of the delay or extension and the reasons for the delay.

### **G. Witnesses**

Both the Reporting Party and Respondent have the option to provide names of potential witnesses to the Investigator. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, or related matters. Witnesses may also be offered to provide subject matter expert information. Where witnesses are interviewed as part of the investigation, the name of the witness and the information gathered in the interviews will be shared with the parties at the conclusion of the investigation. The Investigator has the discretion to determine which of those potential witnesses, or other persons, may have relevant information about the alleged conduct. Witnesses may include individuals outside the University community.

Throughout the investigation, the Investigator will be alert to whether a witness may have been impacted by the effects of the reported conduct, and if so, whether the witness should be treated as a Reporting Party under the Policy and this Resolution Process, and therefore entitled to equitable access to process afforded to Reporting Parties and Respondents.

### **H. Additional Evidence**

Both the Reporting Party and the Respondent are permitted to provide other relevant evidence to the Investigator. Such evidence may include any information presented in support of a party statement and may include text messages, email exchanges, timelines, receipts, photographs, etc. Any documentation shared by the Reporting Party or the Respondent with the Investigator will be provided to the other party. The Investigator may also consider additional documents, items, or other relevant information that the Investigator independently obtains through witnesses or otherwise during the course of the investigation. This information also will be shared with the parties.

During the course of the investigation, the parties are encouraged to bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the Investigator or VP of EEO-TIX. The Investigator may consider such information in the investigation and will also share any such information about retaliation or potential violation of the terms of a supportive measure and/or conduct that violates the Policy with the VP of EEO-TIX for consideration of appropriate action.

## **I. Evidentiary Considerations**

### **1. Medical or Counseling Records or other Legally Privileged Documents**

Legally privileged documents, including medical and counseling records of a Reporting Party and Respondent, are privileged and confidential records that individuals are not required to disclose. However, these records may contain relevant and material information and a party may voluntarily choose to share such records with the Investigator. In such circumstances, the University must obtain voluntary, written consent from the proffering party. Any records provided to the Investigator by a party will be available for review by the other party.

### **2. Prior or Subsequent Conduct**

In gathering information, the Investigator may also consider other reports of, or findings of responsibility for, the same or substantially similar conduct by the Respondent to the extent such information is relevant and available. Such information may be relevant to determining motive, intent, absence of mistake, pattern, or another material fact. For example, where there is evidence of a pattern or conduct the same or substantially similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be relevant and probative to the determination of responsibility and/or sanctioning, as applicable. Similarly, prior or subsequent conduct of a Reporting Party, even when it involves conduct that may violate University policy, may be considered when relevant.

Any party seeking to introduce information about prior or subsequent conduct should bring this information to the attention of the Investigator at the earliest opportunity. Where a sufficient informational foundation exists, the Investigator will assess the relevance, form, and reliability of the information and determine, in consultation with the VP of EEO-TIX, if it is appropriate for inclusion in the investigative report.

## **J. Evidence Review**

At the conclusion of the fact-gathering, the Investigator will make information gathered in the investigation available for review by the parties and any advisors. The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have ten (10) calendar days to submit a written response, which the Investigator will carefully consider prior to completion of the investigative report. The written response may include comments, proposed questions for the Investigator to ask the other party, identification of additional witnesses or sources of evidence, which the Investigator will consider prior to completion of the investigation report.

## **K. Investigative Report**

The Investigator will produce a written investigation report that fairly summarizes the relevant information gathered during the investigation. As noted above, the Investigator has the discretion to determine the relevance of any witness or other evidence. The investigative report will include both inculpatory and exculpatory facts, as well as the Investigator's findings of fact based on an objective evaluation of the relevant information.

The Investigator will consult with the delegate of the VP of EEO-TIX in the application of the findings of fact to the determination of responsibility; the delegate may be an internal designee or external professional, appropriately trained, and free from conflict of interest or bias. The Investigator will apply the preponderance of the evidence standard in making a determination of responsibility. This means that the Investigator, in consultation with the delegate of the VP of EEO-TIX, will decide whether it is more likely than not, based upon the information provided, that the Respondent is responsible for the alleged violation(s). The findings of fact and determination of responsibility will be referred to the Sanctioning Officer/Panel for review of the finding, and as appropriate, imposition of sanction and remedies. Both the Reporting Party and the Respondent may submit written comment in response to the investigation report within ten (10) calendar days, which will be provided to the Sanctioning Panel/Officer.

## **L. Review for Dismissal Following Investigation**

The VP of EEO-TIX, in partnership and consultation with relevant stakeholders (*e.g.*, Employee Relations, Student Affairs, Faculty Affairs), may address unprofessional, disrespectful, and/or offensive conduct that: 1) does not rise to the level of creating a hostile environment or a violation of this Policy, or 2) is of a generic nature not clearly based on a Protected Characteristic; and/or 3) runs counter to the University's mission and values. Addressing such behaviors will not typically result in the imposition of disciplinary sanctions under the Policy, but may be addressed through restorative remedial actions, such as coaching, education, and/or effective conflict resolution or other alternative resolution mechanisms. However, the University reserves the right to take any action it deems, in its sole discretion, appropriate in response to such behaviors.

## **M. Acceptance of Responsibility**

At any point during the investigation, the Respondent may elect to accept responsibility for some or all of the Policy violations at issue. Where there is an acceptance of responsibility as to some but not all of the charges, the investigation will continue to conclusion and any acceptance of responsibility will be documented in the investigative report. Where there is an acceptance of responsibility as to all of the potential Policy violations, the Investigator will complete an investigative report of all information gathered to date and, after consultation with the VP of EEO-TIX, will refer the matter for sanctioning, as described below. Where both parties agree, the matter may also be resolved through the alternative resolution process.

## **N. Sanctioning**

Following a finding of responsibility, a Sanctioning Officer/Panel will determine the appropriate sanction based on all available information.

The composition of the Sanctioning Panel/Officer will be determined by the role of the Respondent:

- For Student Respondents, the Sanctioning Panel will be composed of two employees appointed by the Provost and Senior Vice President for Academic Affairs, and one student by the Vice President for Student Affairs.<sup>15</sup>
- For Faculty Respondents, the Committee on Professional Responsibility will serve as the Sanctioning Panel. Under the Faculty Handbook, the Committee on Professional Responsibility is a subcommittee of the Committee on Tenure and Privileges Appeals Committee. It is appointed by the Provost after consulting with the Chair of the Committee on Tenure and Privileges Appeals and the President of the Faculty. It will include past Presidents of the Faculty, if available, and faculty members in the research-, teaching-, practitioner-, or clinical-tracks.
- For a Staff Respondent, the Sanctioning Officer is a delegate of the Senior Vice President for Human Resources.

The Sanctioning Panel/Officer will convene no later than ten (10) calendar days following the referral of the Investigator's finding of facts and determination of responsibility. The Sanctioning Panel/Officer is responsible for reviewing the investigative report, written responses to the investigative report, and any mitigation or impact statements submitted.

### **1. Impact and Mitigation Statements**

The Reporting Party may submit a written statement describing the impact of the Discrimination, Harassment or Retaliation on the Reporting Party. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The VP of EEO-TIX will provide any statement(s) to the Sanctioning Panel/Officer. Each party has the opportunity to view the other party's statement prior to the imposition of sanction.

### **2. Sanctioning Considerations**

In determining sanction, the Sanctioning Panel/Officer will consider the following factors:

- the nature and severity of the conduct;
- the impact of the conduct on the Reporting Party;
- the impact or implications of the conduct on the community or the University;
- prior misconduct for which the Respondent has been found responsible, including the Respondent's relevant prior discipline history, both at the University or elsewhere (if available), including criminal convictions;
- whether the Respondent has accepted responsibility for the conduct;

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<sup>15</sup> The student should be an undergraduate student in the case of an undergraduate student Respondent, and a graduate student in the case of a graduate student Respondent.

- maintenance of a safe and respectful environment conducive to learning, including whether there is a continued hostile environment on campus caused by the Respondent's conduct;
- presence or absence of bias as a motivation for the Respondent's conduct;
- protection of the University community requiring extended protective measures or other sanctions; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

The Sanctioning Panel/Officer will draft a written sanctioning determination that will include the sanction and the rationale for the sanction and forward it to the EEO-TIX Office within five (5) calendar days for simultaneous distribution to the parties.

In the event the Sanctioning Panel/Officer recommends dismissal of a tenured faculty member, that information should be included in the written sanctioning determination that is forwarded to both the parties and the Provost.

The imposition of sanctions will take effect immediately and will not be stayed pending the resolution of any appeal.

### **3. Range of Sanctions**

Sanctions imposed upon Students can include a range of sanctions including, warning, censure, education, counseling, disciplinary probation, loss of privileges, suspension or expulsion from a residence hall or Greek housing, suspension or expulsion from University premises, and/or suspension or expulsion from the University's academic or extracurricular programs. Any of these forms of sanction may be supplemented with additional required actions by the Respondent.

Sanctions imposed on employees, including Staff and Faculty, can include a range of sanctions including, warning, censure, education, counseling, disciplinary probation, paid or unpaid suspension of employment, demotion, or termination of employment.

For tenured Faculty Respondents, the Sanctioning Panel may recommend the Provost initiate formal charges for termination consistent with Chapter 8 of the Faculty Handbook. This recommendation will consider whether the findings and conclusions meet the criteria stated in Section 8-C of the Faculty Handbook for adequate cause for dismissal of a tenured faculty member. The Provost may decide to bring formal charges and, if so, the charges shall be considered pursuant to the formal proceedings set forth in Section 8-D (2) of the Faculty Handbook, commencing with Step 4. Formal charges are heard by a dismissal Hearing Board as provided in Step 5 of Section 8-D (2). It is up to the Provost to decide whether to file formal dismissal charges whether or not the panel has recommended them. At the conclusion of the tenure dismissal process, the Provost will communicate the sanctioning determination to the VP of EEO-TIX.

### **O. Remedies**

The VP of EEO-TIX will review the determination of responsibility and sanction, if any, to determine whether additional remedies for the Reporting Party or the University community are

necessary to restore and preserve equal access to the University's education program and activity. Examples of such remedies may include the continuation or initiation of supportive measures, including the provision of counseling, academic services, escort services, and/or training for members of the University community, as well as making modifications to academic, employment, or housing conditions or assignments.

#### **P. Written Notice of Outcome**

The Investigator and Sanctioning Panel/Officer will prepare a written decision, including the finding of responsibility or non-responsibility, any disciplinary sanctions, and rationale. The VP of EEO-TIX will issue the written notice of outcome to the Reporting Party and Respondent within ten (10) calendar days following the conclusion of the deliberations. The notice of outcome will include:

- (i) Identification of the allegations potentially constituting Prohibited Conduct;
- (ii) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- (iii) Findings of fact supporting the determination;
- (iv) Conclusions regarding the application of the Policy to the facts;
- (i) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Complainant; and
- (ii) The procedures and permissible bases for the complainant and respondent to appeal.

#### **Q. Appeals**

Both a Reporting Party and Respondent have the right to appeal the dismissal of the Formal Complaint, the final determination of responsibility, and/or the resulting sanction based on the following three limited grounds:

1. **Procedural irregularity that affected the outcome of the matter.** Procedural or technical irregularities will not be sufficient to sustain an appeal unless found to have affected the outcome of the Formal Complaint.
2. **New evidence, not reasonably available at the time of the investigation regarding responsibility or dismissal of the Formal Complaint, that could affect the outcome of the matter,**<sup>16</sup> An appeal on this basis is limited to new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the Formal Complaint. The appeal must specify the new evidence that was not reasonably available at the

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<sup>16</sup> The time frame for filing an appeal based on newly discovered information may be extended at the discretion of the VP EEO-TIX where the evidence could not reasonably have been discovered within the time frame and a compelling justification exists for its consideration.

time of the determination, why the evidence was unknown or unavailable, and how the new evidence could affect the outcome of the Formal Complaint.

- 3. The VP of EEO-TIX, Investigator, or Sanctioning Officer/Panel had a conflict of interest or bias for or against Reporting Parties or Respondents generally or the individual Reporting Party or Respondent that affected the outcome of the matter.** The appeal must specify the basis on which the party believes there is an actual conflict of interest or bias that affected the outcome of the matter.

A concise written request for appeal must be submitted to the VP of EEO-TIX within seven (7) calendar days following delivery of either the notice of the outcome in the event of a finding of non-responsibility, or the written sanctioning decision in the event of a finding of responsibility. Each party may respond in writing to any appeal submitted by the other party. Written responses must be submitted within seven (7) calendar days following delivery of the notice of the written appeal. Written requests for appeal submitted by one party will be shared with the other party.

The designated Appellate Authority may be an external professional or a University administrator, appropriately trained, and free from conflict of interest or bias. The Appellate Authority, based on the status of the Respondent at the time of the alleged Prohibited Conduct, may be:

- For a Student Respondent, the Appellate Authority is a delegate of the Vice President of Student Affairs who is not otherwise involved in any step of the process.
- For a Faculty Respondent, the Appellate Authority is a delegate of the Provost who is not otherwise involved in any step of the process.
- For a Staff Respondent, the Appellate Authority is a delegate of the Senior Vice President for Human Resources who is not otherwise involved in any step of the process.

Either party may challenge the Appellate Authority on the basis of conflict of interest or bias.

The Appellate Authority will review the written appeal submissions by the parties, the investigative report (including all exhibits and related materials), and the written notice of outcome. The Appellate Authority may: (a) affirm the findings or determination of responsibility; (2) affirm or modify the sanction(s); or (3) remand the matter for reevaluation or further investigation. The Appellate Authority will issue a simultaneous written decision to the parties within ten (10) calendar days of receipt of the appeal. In reaching a decision, the Appellate Authority has the discretion to consult with relevant stakeholders.

The decision by the Appellate Authority is final.

## **R. Time Frame for Resolution**

The University will seek to complete the formal resolution process in a prompt and timely manner consistent with the reasonably prompt timeframes for the major stages of the process designated in this Resolution Process. The University may extend any timeframe in this Resolution Process for good cause. An extension may be required for good cause to ensure the integrity and

thoroughness of the investigation; to comply with a request by law enforcement; in response to the unavailability of the parties (or their advisors) or witnesses; based on the need for language assistance or accommodation of disabilities; or for other legitimate reasons, such as intervening breaks in the academic calendar, finals periods, the complexity of the investigation, the volume of information or length of the written record, and/or the severity and extent of the alleged misconduct. While requests for delays by the parties may be considered, the University cannot unduly or unreasonably delay the prompt resolution of a report under this Policy.

Reasonable requests for delays by the parties will serve to extend the anticipated time period for resolution of the report. The VP of EEO-TIX, in consultation with the Investigator, has the authority to determine whether an extension is required or warranted by the circumstances, and will notify the parties in writing of any extension of the timeframes for good cause and the reason for the extension.

The University's overarching goal is that all complaints be investigated in a prompt, fair, and impartial manner. Although cooperation with law enforcement may require the University to suspend the fact-gathering portion of the investigation temporarily, the University will promptly resume its investigation as soon as it is notified by the law enforcement agency that the agency has completed its initial evidence gathering process. The University will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide appropriate supportive measures for the Reporting Party and Respondent.

## **IX. Alternative Resolution**

Following receipt of a Formal Complaint, the University may resolve reports through Alternative Resolution, as appropriate based on the circumstances. Alternative Resolution is available only once a Formal Complaint has been filed, prior to a determination of responsibility, and if the Reporting Party and Respondent voluntarily consent to the process in writing. In all cases, the VP of EEO-TIX will have discretion to determine whether or not Alternative Resolution, or any particular form of Alternative Resolution, is appropriate to the circumstances.

Alternative Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent; mediation; indirect action by the EEO-TIX Office or other appropriate University officials; and other forms of resolution that can be tailored to the needs of the parties. With the voluntary consent of the parties, alternative resolution may be used to impose agreed-upon disciplinary sanctions. Any person who facilitates an Alternative Resolution will be trained and free from conflicts of interest or bias for or against either party.

If the parties are interested in pursuing Alternative Resolution, the VP of EEO-TIX will send written notices to the parties describing:

1. the allegations at issue;
2. the requirements of the Alternative Resolution process;

3. the circumstances under which the parties are precluded from resuming a Formal Complaint arising from the same allegations;
4. the right to end the Alternative Resolution process at any time prior to resolution and resume the Formal Complaint process; and
5. the consequences resulting from participating in the Alternative Resolution, including that the records and communications created or maintained as part of the Alternative Resolution process may be viewed by parties, or later used or considered in the Formal Complaint process, including during the investigation, if found relevant by the Investigator.

All parties will be required to return signed copies of the written notices agreeing to the Alternative Resolution process.

With any form of Alternative Resolution, each party has the right to choose and consult with an advisor, or request that one be provided to them by the University, if available. The advisor may be any person, including an attorney, who is not otherwise a party or witness to the reported incident(s). The parties may be accompanied by their respective advisors at any meeting or proceeding held as part of Alternative Resolution. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

Any form of Alternative Resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to the University, the Complainant, and the Respondent is reached through Alternative Resolution, the terms of the agreement are implemented and the matter is resolved and closed. The VP-EEO-Title IX or designee will monitor the implementation of the agreement as appropriate. If an agreement between the parties and subject to the VP of EEO-TIX's approval is not reached or if a Respondent fails to comply with the terms of the Alternative Resolution, the Formal Complaint may be referred for investigation or an investigation may resume under the formal resolution process. Depending on the terms of the Alternative Resolution agreement, the matter may be considered closed and the parties will be precluded from filing another Formal Complaint arising from the same set of facts or circumstances.

Prior to reaching a resolution, any party can withdraw from the Alternative Resolution process, and the University will resume the Formal Complaint process. The University's goal is to complete an Alternative Resolution within thirty (30) calendar days of the parties' written agreement to participate in the process. If the University anticipates the process will take longer, written notification will be provided to the parties with an explanation regarding the delay.

# The University of Southern California Resolution Process for Sexual Misconduct

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# The University of Southern California Resolution Process for Sexual Misconduct

## I. Introduction

The University of Southern California (University) is committed to providing a prompt and equitable response to all reports and Formal Complaints of Title IX Sexual Harassment and other forms of sexual misconduct, all of which fall under the University's definitions of Prohibited Conduct under the Policy on Prohibited Discrimination, Harassment, and Retaliation (Policy). The University's Resolution Processes for addressing Prohibited Conduct are grounded in fairness and support for all parties, and include procedural protections that ensure notice, equitable opportunities to participate, and a neutral and impartial investigation, resolution, and appeal process. The definitions of specific forms of Prohibited Conduct and other core concepts are included in the Policy.

## II. Scope

This Resolution Process will be used to resolve reports and Formal Complaints of the following forms of Prohibited Conduct, referred to collectively in this Resolution Process as Sexual Misconduct:

**Title IX Sexual Harassment**, which includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking

**Other Forms of Sexual Misconduct**, which includes Sexual or Gender-Based Harassment, Non-Consensual Viewing, Recording, and Dissemination, Exposure, and other forms of Dating and Domestic Violence

**Retaliation**, when related to a report or Formal Complaint of Sexual Misconduct

This Resolution Process applies to reports and Formal Complaints against Students, Faculty, and Staff that occur within the University's education program or activity. In this Resolution Process, the individual reported to have experienced Sexual Misconduct is referred to as the Reporting Party.<sup>17</sup> The individual who is reported to have committed Sexual Misconduct is referred to as the Respondent.

For reports of Formal Complaints against Third Parties, which include contractors, vendors, visitors, guests, or other individuals who are participating in or seeking to participate in the University's education program or activities, the University will determine the appropriate manner of resolution, which may include referral to local law enforcement or to the home school or employer of the Third Party Respondent, and/or restriction from access to campus or University programs or activities. The University's ability to take disciplinary action against a Third Party

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<sup>17</sup> The U.S. Department of Education uses the term Complainant to refer to the individual who is reported to have experienced Title IX Sexual Harassment. The University chooses to use the term Reporting Party, which should be read as synonymous with Complainant under the Title IX regulations; a Reporting Party has all of the same rights and procedural protections as a Complainant under Title IX's implementing regulations.

Respondent will be limited and is determined by the context of the Prohibited Conduct and the nature of the University's relationship to the Third Party Respondent.

The term "education program or activity," whether singular or plural, includes all of the University's operations, including locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the conduct occurred; and any building owned or controlled by a student organization that is officially recognized by the University. Under limited circumstances, the Policy and this Resolution Process may also apply to instances in which the conduct occurred outside of the education program or activity, but where the University otherwise regulates the conduct, the conduct has or could have a continuing impact within the University's education program or activity, or the conduct may have the effect of posing a serious threat to the University community.

In the event any individual with a responsibility identified in the Policy or Resolution Process, including the Vice President for Equity, Equal Opportunity, and Title IX (VP of EEO-TIX), investigator, or Hearing Officer, has a conflict of interest that would compromise that individual's objectivity in discharging that responsibility, the University will appoint a designee. Concerns about a potential conflict of interest involving an investigator, Hearing Officer, or other implementer should be raised with the VP of EEO-TIX. Concerns about a potential conflict of interest with the VP of EEO-TIX should be raised with the Senior Vice President for Human Resources.

### **III. Resources and Reporting Options**

#### **A. Reporting Options**

The University encourages anyone who has experienced Prohibited Conduct to report it directly to the VP of EEO-TIX or Office for Equity, Equal Opportunity, and Title IX (EEO-TIX Office).<sup>18</sup> Any individual may make a report of Prohibited Conduct under this Policy regardless of affiliation with the University and regardless of whether or not the person reporting is the person alleged to be the individual impacted by the conduct. Reports can be made in person, by mail, by telephone, or by electronic mail, or by any other means that results in the VP of EEO-TIX or EEO-TIX Office receiving the verbal or written report. A report may be made at any time (including during non-business hours) by using the telephone number, email address, or office mailing address, of the VP of EEO-TIX, listed below:

Catherine Spear  
Vice President for Equity, Equal Opportunity, and Title IX  
**Office for Equity, Equal Opportunity, and Title IX**  
USC Credit Union Building  
3720 South Flower Street, 2nd Floor  
Los Angeles, CA 90089-0704  
213-740-5086  
<http://usceotitleix.wpengine.com/>

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<sup>18</sup> The VP of EEO-TIX serves as the University's Title IX Coordinator. All references to the VP of EEO-TIX include an appropriately trained and experienced designee.

[titleix@usc.edu](mailto:titleix@usc.edu) (for all inquiries, reports, or complaints regarding Title IX or sexual harassment)

[eeotix@usc.edu](mailto:eeotix@usc.edu) (for all inquiries, reports, or complaints regarding this Policy or other forms of Prohibited Conduct)

[vpeeotix@usc.edu](mailto:vpeeotix@usc.edu) to reach the VP of EEO-TIX

In addition, the University encourages anyone who experiences or witnesses an incident of Prohibited Conduct that may also violate criminal law to *immediately* report the incident to the Department of Public Safety or external law enforcement using the following contact information:

- **Department of Public Safety**  
UPC: (213) 740-6000 (24 hour, non-emergency number)  
HSC: (323) 442-1200 (24 hour, non-emergency number)
- **Los Angeles Police Department**  
911 (for emergencies)  
1-877-ASK-LAPD (24-hour, non-emergency number)

A Reporting Party may choose to make a report to the University to pursue resolution under this Resolution Process and may also choose to make a report to external law enforcement. A Reporting Party may make a report to the University, to law enforcement, to neither, or to both. As set forth in the Policy, a Reporting Party has the right to report, or decline to report, potential criminal conduct to law enforcement.<sup>19</sup> Upon request, the University will assist a Reporting Party in contacting law enforcement at any time, regardless of whether the Reporting Party wishes to pursue a Formal Complaint under this Resolution Process. Under limited circumstances posing a threat to the health or safety of any University community member, or as required by the University's Memorandum of Understanding with the Los Angeles Police Department, the University will independently notify law enforcement. The University's Resolution Process and law enforcement investigations may be pursued simultaneously, but will operate independently of one another. The University will, when appropriate, coordinate information with law enforcement if law enforcement is notified.

## **B. Confidential Resources**

The University also offers access to Confidential Resources for individuals who are unsure about whether to report Sexual Misconduct or are seeking counseling or other emotional support in addition to (or without) making a report to the University. Confidential Resources include:

- **Relationship and Sexual Violence Prevention and Services (RSVP)**  
Provides direct support to Reporting Parties, including crisis appointments, group therapy, discussions of reporting options, and support surrounding academic accommodations.  
<https://studenthealth.usc.edu/sexual-assault/>  
USC Student Health's Engemann Student Health Center Suite 356  
(213) 740-9355 (WELL)

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<sup>19</sup> The University will comply with external reporting obligations under California state law related to known or suspected abuse, molestation, or neglect relating to children, elders, or dependent adults. For more information, please visit <https://policy.usc.edu/mandated-reporters/>.

- **Counseling and Mental Health**  
Provides counseling and support for students, including direct support to both Reporting Parties and Respondents  
<https://studenthealth.usc.edu/counseling/>  
(213) 740-9355
- **Center for Work and Family Life**  
Provides support for employees  
<http://cwfl.usc.edu/>  
(213) 821-0800

#### **IV. Role of the Advisor**

The Reporting Party and Respondent each have the right to be accompanied at any meeting or hearing under the Policy and this Resolution Process by an advisor of their choice. The advisor may be any person, including an attorney, but need not be an attorney. A party may decline to use an advisor for all stages of the formal or alternative resolution process, with the exception of the hearing, where any questioning of the other party must be conducted by the party's advisor. If a party does not have an advisor for the hearing, the University will provide an advisor, free of charge. This University-appointed advisor may be, but is not required to be, an attorney, and will attend the hearing and conduct questioning on behalf of that party. The University-appointed advisor is referred to as a hearing advisor. The hearing advisor will be selected from a pool of diverse individuals that reflect a multiplicity of identities who have been trained on the University's Policy and Resolution Processes.

The Resolution Process is not a legal proceeding and, although a party may be advised by their advisor, the conduct of the advisor will be governed by the Policy and this Resolution Process. A party's advisor of choice may provide support and advice to the parties at any meeting and/or proceeding, but, except as otherwise permitted by this Resolution Process, they may not speak on behalf of the parties or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings. With the exception of the advisor's live questioning during a hearing, the advisor may observe, provide support, and provide guidance or advice to the party (in a non-disruptive manner). The University may remove or dismiss advisors who do not abide by the restrictions on their participation or who are otherwise disruptive. An advisor may be asked to meet with a member of the EEO-TIX Office in advance of any meetings or proceedings to receive and acknowledge the University's overview of the Policy and Resolution Process, expectations of the role, privacy considerations, and appropriate decorum.

Generally, all communications between the EEO-TIX Office and a Reporting Party or Respondent will occur through the party directly, not the advisor, and the party, rather than the advisor, is required to submit any written correspondence or documents. Although a party may authorize the University to share information with their advisor by executing a Family Education Rights and Privacy Act (FERPA) waiver, the University is not required to do so. An advisor should plan to make themselves reasonably available for all meetings and proceedings. The University will not unduly delay the scheduling of meetings or proceedings based on the advisor's unavailability.

An advisor is entitled to review all information gathered in the investigation that is directly related to the allegations (as part of evidence review), to access the investigation report, and to cross-examine the other party and all witnesses during the hearing.

## **V. Initial Assessment**

### **A. Response to Report of Sexual Misconduct**

Any person may report Sexual Misconduct to the University's VP of EEO-TIX. Upon receipt of a report alleging Sexual Misconduct or notice to the VP of EEO-TIX of an alleged violation of the Policy, the VP of EEO-TIX will conduct an Initial Assessment of the reported information and respond to any immediate health or safety concerns raised by the report. The VP of EEO-TIX will also promptly contact the Reporting Party to:

- discuss the availability of supportive measures with or without the filing of a Formal Complaint;
- discuss the process for filing a Formal Complaint; and
- ascertain and consider the Reporting Party's wishes with respect to supportive measures.

A Reporting Party may: request supportive measures only; file a Formal Complaint; or request more time to consider their options. Alternatively, as described below, the VP of EEO-TIX may determine that it is appropriate to file a Formal Complaint on behalf of a Reporting Party. After the filing of a Formal Complaint, the Reporting Party may decide to seek an alternative resolution in lieu of a formal resolution process (investigation and hearing). A Reporting Party is always entitled to reasonably available supportive measures, regardless of whether a formal or alternative resolution process has been initiated.

As part of the Initial Assessment, the VP of EEO-TIX will determine, in consultation with other need-to-know University officials, as appropriate, whether the Policy applies to the report and whether the reported conduct falls within the jurisdiction and scope of the Policy, including Title IX Sexual Harassment.

### **B. Intake Meeting**

The Initial Assessment typically includes an initial intake meeting (which may take place in person, by telephone, or via live technology), with the Reporting Party to understand the nature and circumstances of the report and to provide the Reporting Party with information about resources, including local law enforcement resources as applicable, procedural options, supportive measures, and an opportunity to discuss the Policy and these Procedures.

In addition to the intake meeting, the University will provide the Reporting Party with written information about resources, procedural options for alternative and formal resolution, reasonably available supportive measures and the process for requesting and obtaining those supportive measures, the range of disciplinary sanctions available upon a finding of responsibility for violating the Policy, the prohibition against retaliation, and the available mechanisms to report concerns of retaliation. The written information will also include information about campus and

community resources and services, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other available services. This written information will also include a notification about the process for seeking disability-based accommodations, academic adjustments, and/or auxiliary aids under Section 504 of the Rehabilitation Act and/or other applicable federal, state, or local laws.

### **C. Overview of Initial Assessment**

As part of the Initial Assessment of the report, the VP of EEO-TIX will:

- Address the immediate physical safety and emotional well-being of the Reporting Party or other campus community members, and offer support and assistance;
- Notify the Reporting Party of the availability of medical and counseling resources to address physical and mental health concerns;
- Notify the Reporting Party of the importance of preserving evidence, including examples of the types of evidence to preserve;
- Notify the Reporting Party of the right to contact or decline to contact law enforcement, and, if requested, assist them with notifying law enforcement;
- Conduct an individualized analysis of safety and risk for the campus community to determine whether a Student Respondent's presence in the program or activity poses an immediate threat to the physical health or safety of any student, faculty, staff, or other individual such that it justifies emergency removal;
- Conduct an individualized analysis of safety and risk for the campus community to determine the need for administrative leave for an Employee Respondent;
- Consult with the University's threat assessment team as necessary and appropriate;
- Promptly contact the Reporting Party to discuss the availability of supportive measures;
- Consider the Reporting Party's wishes with respect to supportive measures;
- Assess the nature and circumstances of the report based on reasonably available information;
- Discuss the Reporting Party's expressed preference for manner of resolution (*i.e.*, formal resolution in the form of an investigation and hearing or informal resolution) and any barriers to proceeding;
- Share information with the Department of Public Safety (DPS) to comply with Clery Act reporting requirements and timely warning assessments;

- Provide the Reporting Party with information about on- and off-campus support resources;
- Provide the Reporting Party with a copy of the Policy and an explanation of the procedural options, including seeking supportive measures, the process for filing a Formal Complaint, the formal resolution process, and alternative resolution;
- Inform the Reporting Party that they may seek an advisor of choice to assist them throughout the investigation and resolution of the report, that the advisor may accompany them to any meeting or proceeding under the Policy and Resolution Process, and that if the matter proceeds under the formal resolution process and either party does not have an advisor, the University will provide a hearing advisor, without fee or charge, to conduct questioning on behalf of the party at the hearing;
- Assess for relevant evidence of a pattern or other similar conduct by the Respondent; and
- Explain the University’s policy prohibiting Retaliation and that the University will take prompt appropriate action in response to the known circumstances of any report of alleged Retaliation.

#### **D. Formal Complaint**

The formal resolution process (*i.e.*, investigation, hearing, and appeal) is initiated by the filing of a Formal Complaint. A Formal Complaint is a written document submitted to the VP of EEO-TIX by the Reporting Party alleging that a Respondent engaged in Sexual Misconduct and requesting an investigation. The Formal Complaint may be submitted to the VP of EEO-TIX in person, by mail, or by electronic mail, using the Formal Complaint form. The Reporting Party may also contact the VP of EEO-TIX directly for assistance in making a Formal Complaint. At the time of filing the Formal Complaint, the Reporting Party must be participating in or attempting to participate in the University’s education program or activities. In addition, the VP EEO-TIX retains discretion, in consultation with relevant University stakeholders, to file a Formal Complaint on behalf of any individual. Where a Reporting Party files a Formal Complaint and requests an investigation, and the reported conduct falls within the scope and jurisdiction of the Policy, the EEO-TIX Office must pursue an investigation.

##### **1. Dismissal (Mandatory and Discretionary)<sup>20</sup>**

The VP of EEO-TIX will determine whether the conduct alleged in the Formal Complaint falls within the scope of the Policy and the Title IX definition of Sexual Harassment.

Under the Title IX regulations, the University must dismiss some or all of the allegations in the Formal Complaint that relate to Title IX Sexual Harassment if it is determined at any stage during the process that:

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<sup>20</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations at 34 C.F.R. Section 106.45.

- 1) the conduct alleged, even if substantiated, would not constitute Title IX Sexual Harassment, as defined in the Title IX regulations and the Policy; and/or
- 2) the conduct did not occur within the University's education program or activity (which requires substantial control over both the Respondent and the context, or where the conduct occurred in a building controlled by recognized student organizations); and/or
- 3) the conduct did not occur against an individual in the United States.

It is important to note that, where the allegations in the Formal Complaint include other forms of Sexual Misconduct prohibited by the University, the conduct occurred outside of the United States, or the conduct is not within the education program or activity (but still within the scope of conduct regulated by the University), the formal resolution process will apply and the remaining allegations will proceed to an investigation and hearing pursuant to that process.<sup>21</sup>

In addition, under the Title IX regulations, the VP of EEO-TIX may dismiss a Formal Complaint, at any stage of the process, in any of the following three circumstances:

- 1) the Reporting Party notifies the VP of EEO-TIX in writing that the Reporting Party would like to withdraw the Formal Complaint or any of its allegations;
- 2) the Respondent is no longer enrolled or employed by the University; or
- 3) specific circumstances, including a Reporting Party's decision not to respond to outreach by the EEO-TIX Office, prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or its allegations.

The decision about whether to dismiss a Formal Complaint, in whole or in part, may be made at any stage in the process. Upon any dismissal, the VP of EEO-TIX will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. Either party may appeal the dismissal of some or all of the allegations in a Formal Complaint by notifying the VP of EEO-TIX in writing of the challenge within five (5) calendar days of receipt of notification of the dismissal. The other party will be notified of the appeal. The appeal will be heard by an impartial Appellate Authority, who may be a university administrator or an external professional who is appropriately trained and free from conflict of interest or bias. For more information about the appeals process, see Section X.N.

A Reporting Party who withdraws a complaint may later request to reinstate or refile it, and a new Initial Assessment will be conducted.

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<sup>21</sup> As noted above, this includes circumstances where the University otherwise regulates the conduct, the conduct has or could have a continuing impact within the University's education program or activity, or the conduct may have the effect of posing a serious threat to the University community. Although the formal resolution process is the same for conduct regulated by the Title IX regulations and other forms of Sexual Misconduct or other Prohibited Conduct, the parties, pursuant to the Title IX regulations, have the opportunity to appeal the mandatory dismissal of the allegations related to Title IX Sexual Harassment.

## 2. VP EEO-TIX Discretion to File Formal Complaint

The VP of EEO-TIX also has the discretion, in consultation with relevant University stakeholders, to file a Formal Complaint on behalf of any individual. In evaluating the appropriate manner of resolution, including whether the VP of EEO-TIX will file a Formal Complaint in the absence of a Formal Complaint by the Reporting Party, the VP of EEO-TIX will consider the following list of risk factors:

- whether the Reporting Party has requested anonymity;
- whether the Reporting Party wants to participate in an investigation,;
- the totality of the known circumstances;
- the severity and impact of the alleged Sexual Misconduct on the Reporting Party and/or campus community members;
- whether the alleged Sexual Misconduct was committed with a weapon;
- the respective ages of the parties, including whether the Reporting Party is a minor (under the age of 18) or was a minor at the time of the alleged Sexual Misconduct;
- whether the Respondent has made any statements of admission or otherwise accepted responsibility for the alleged Sexual Misconduct;
- whether the alleged Sexual Misconduct involved physical violence (*i.e.*, exerting control over another person through the use of physical force, such as hitting, punching, slapping, kicking, restraining, or strangling);
- whether the Respondent has a history of prior arrests or being the subject of prior reports or complaints of any form of Sexual Misconduct, or has any history of violent behavior;
- whether the Respondent is alleged to have threatened to commit violence or any form of Sexual Misconduct;
- whether the alleged Sexual Misconduct was committed by multiple perpetrators;
- whether the report reveals a pattern of Sexual Misconduct (*e.g.*, by the Respondent; at a particular location, event, or activity; by a particular group or organization);
- whether the alleged Sexual Misconduct was facilitated through the use of “date-rape” or similar drugs or intoxicants;
- whether the alleged Sexual Misconduct occurred while the Reporting Party was unconscious, physically helpless, or unaware that the Sexual Misconduct was occurring;

- the existence of independent evidence that may be available without the participation of the Reporting Party;
- the scope and nature of prior remedial methods taken with respect to the Respondent;
- whether the Respondent has a history of failing to comply with any University directives (*e.g.*, Avoidance of Contact Directive) or any judicial protective order;
- whether any other aggravating circumstances or signs of predatory behavior are present; and
- any other relevant and available information.

The EEO-TIX Office will take all reasonable steps to respond to the report in a manner that honors the Reporting Party's requested course of action, but its ability to do so may be limited based on the nature of the reported information. Where the VP of EEO-TIX files a Formal Complaint on behalf of the Reporting Party, the VP of EEO-TIX will inform the Reporting Party about the chosen course of action and the underlying rationale based on the risk factor listed above.

### **3. Consolidation of Formal Complaints**

The University may consolidate Formal Complaints against more than one Respondent, or by more than one Reporting Party against one or more Respondents, or by one party against the other party (*i.e.*, counterclaim), where the allegations of Sexual Misconduct arise out of the same or substantially similar facts or circumstances. All parties will receive simultaneous, timely notification of any such consolidation. During the course of the investigation, the investigation may reveal the existence of additional or different potential policy violations, which may also be consolidated following notification to the parties of the amended notice of investigation.

The University has an obligation to ensure that the formal resolution process is not abused for retaliatory purposes. The University permits the filing of counterclaims; however, it will use an Initial Assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims determined based on the available information to be made in good faith (which is not the same as a determination as to whether they are substantiated or not) will be processed using this resolution process. Depending upon the timing and circumstances of such allegations, the VP of EEO-TIX retains discretion to resolve such claims through the same investigation with the same investigator(s) or following resolution of the initial allegations that gave rise to the formal investigation, in which case a delay may occur. When counterclaims are not made in good faith, they may constitute Retaliation in violation of the Policy.

### **E. Determining the Scope and Manner of Resolution**

The VP of EEO-TIX will consider the nature of the report, the safety of the individual and the campus community, and the Reporting Party's expressed preference for the manner of resolution in determining the appropriate course of action to achieve the goals of Title IX and/or the Policy. The range of available resolution options include:

<b>No Further Action</b>	<b>Supportive Measures Only</b>	<b>Formal Resolution</b>	<b>Alternative Resolution</b>
(which may involve referral to another University policy)	(regardless of whether a Formal Complaint is filed)	(following a Formal Complaint by the Reporting Party or VP of EEO-TIX)	(following a Formal Complaint by the Reporting Party or VP of EEO-TIX)

The Initial Assessment will proceed to the point where a reasonable individualized assessment of the safety of the Reporting Party and of the campus community can be made, and the VP of EEO-TIX, in consultation with other University stakeholders as appropriate, has sufficient information to determine the appropriate course of action. The VP of EEO-TIX will seek to complete the Initial Assessment as promptly as possible, typically within ten (10) calendar days of notice of the report or complaint. There may be circumstances, however, where the Initial Assessment takes longer, based on the availability of the Reporting Party or other necessary information, the need to gather additional information, and/or other factors outside of the University’s control. The University also understands that a Reporting Party may engage in delayed decision-making, which may impact the timing of the conclusion of the Initial Assessment.

At the conclusion of the Initial Assessment, the Reporting Party will receive a written notice, which may be by email, of the determination about how the University will proceed. If the matter is proceeding via a Formal Complaint, the Respondent will also be notified and invited to participate in an intake meeting that will cover the same type of information as is provided to the Reporting Party, including supportive measures.

**VI. Supportive Measures**

**A. Supportive Measures**

As set forth in the Policy, supportive measures are non-disciplinary, non-punitive, individualized support services that are offered as appropriate, as reasonably available, and without fee or charge to the Reporting Party when a report is received, whether or not a Formal Complaint is filed, and to Respondents after a Formal Complaint has been filed. Supportive measures are designed to address the physical safety and emotional well-being of the parties (and University community, as appropriate), as well as to restore or preserve equal access to the University’s education programs and activities (including employment opportunities) without unreasonably burdening the other party, or to deter any form of Prohibited Conduct.

Supportive measures may be temporary or permanent and may include, but are not limited to, the following:

- access to confidential counseling and assistance with scheduling initial appointments;
- arrangement of a meeting with appropriate law enforcement to discuss or report conduct and/or to discuss safety planning;

- assistance in seeking academic accommodations, such as modified class schedules (including transfer to another section); permission to withdraw from and/or retake a class, or attend a class via alternative means (*e.g.*, online or independent study); extensions of deadlines or other course-related adjustments; and voluntary leaves of absence;
- assistance in modifying University housing arrangements, including immediate temporary relocation to safe living quarters and/or permanent reassignment of University residence halls;
- assistance in modifying University employment conditions, such as changes in work schedules, job or supervisory assignments, work locations, and/or assigned parking;
- assistance in arranging campus escort services;
- imposition of a mutual Avoidance of Contact Directive (*i.e.*, a written directive to refrain from contact, directly or indirectly through a third-party proxy) to the parties;<sup>22</sup>
- increased security and monitoring of certain areas of the campus; and
- any other similar measures that may be arranged by the University (to the extent reasonably available) to ensure the physical safety and emotional well-being of a Reporting Party or Respondent.

The VP of EEO-TIX will consider a number of factors in determining which supportive measures to take, including the needs of the student or employee seeking supportive measures; the severity or pervasiveness of the alleged misconduct; any continuing effects on the Reporting Party; whether the Reporting Party and the Respondent share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the Reporting Party (*e.g.*, protective orders). The University will work in good faith to implement the requirements of judicially-issued protective orders and similar orders, to the extent it has the authority to do so.

The VP of EEO-TIX is responsible for ensuring the effective implementation of supportive measures and coordinating resources with the appropriate offices on campus. The University will maintain the confidentiality of any supportive measures provided under the Policy to the extent practicable and will promptly address any violation of supportive measures. Allegations that a party has violated the terms of a supportive protective measure, including but not limited to an Avoidance of Contact Directive or other University directive, may constitute a violation of the Policy and may subject the individual who has been alleged to violate the supportive measure to disciplinary or administrative actions. The VP of EEO-TIX will determine and identify the appropriate procedures to be followed for such alleged violations, depending on the timing and circumstances of the reported violation.

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<sup>22</sup> One-way Avoidance of Contact Directives are permitted in limited circumstances, including to help enforce a restraining order, preliminary injunction, or other order of protection issued by a court, or if a one-way No-Contact Directive does not unreasonably burden the other party.

The VP of EEO-TIX will also provide reasonably available supportive measures for third parties, provided that the supportive measures are within the scope of that individual's relationship to the University.

## **B. Emergency Removal**

Certain circumstances may warrant removing a Student Respondent from a University program or activity on an emergency basis, typically in the form of an interim suspension. The University may remove a Student Respondent on an emergency basis from University property or employment, education, research programs or activities, or other University programs and activities. Before imposing an emergency removal, the University will undertake an individualized analysis of safety and risk for the campus community to determine whether the Respondent's presence in the University program or activity poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct, and justifies removal of the Respondent from the University program or activity.

The VP of EEO-TIX will promptly provide the Reporting Party, where appropriate because the removal relates to them, and the Respondent with simultaneous written notice of the Emergency Removal, the effect of the Emergency Removal, the rationale for the Emergency Removal, and an opportunity for the Respondent to challenge the Emergency Removal. During any challenge, the Respondent will remain off campus and must comply with the notice of Emergency Removal. That notice will include a statement that any information the Respondent chooses to provide during the challenge may subsequently be used in implementing any aspect of this Policy, including the investigation and hearing.

The Respondent will have 72 hours from the notice of Emergency Removal to submit a written challenge to the safety and risk analysis that forms the rationale for the Emergency Removal to the VP of EEO-TIX. The VP of EEO-TIX will assign the matter to be reviewed by the Vice President for Student Affairs or designee to evaluate the information in support of the individualized safety and risk analysis and any information provided by the Respondent and the Reporting Party, as applicable. The Vice President for Student Affairs will submit a final decision in writing to the Respondent and the Reporting Party within three (3) calendar days, with a copy to the VP of EEO-TIX.

## **C. Administrative Leave**

The University may place a non-Student Staff or Faculty Respondent on administrative leave, with or without pay, at any time. In reaching a determination as to administrative leave, the VP of EEO-TIX will consult with the Respondent's immediate supervisor or designee, the Senior Vice President for Human Resources, or the Provost.

## **VII. Formal Resolution**

This formal resolution process is followed after the filing of a Formal Complaint by the Reporting Party or VP of EEO-TIX.

## **A. Expectations of the Parties**

During the formal resolution process, both the Reporting Party and Respondent can expect:

- a prompt, fair, impartial, thorough, and equitable investigation and resolution of allegations of Prohibited Conduct conducted by individuals with sufficient training and/or experience related to their role;
- an investigator, decision-maker, and/or facilitator of alternative or formal resolution free from conflict of interest or bias for or against reporting parties or respondents generally or the individual parties related to the report or Formal Complaint;
- privacy, to the extent possible, in accordance with the Policy and any legal requirements;
- access to reasonably available supportive measures without fee or charge;
- the opportunity to request and receive reasonable accommodations for a disability or necessary language translation or interpreter services to ensure meaningful participation in any step of the proceedings under the Policy;
- freedom from Retaliation for making a good faith report of Prohibited Conduct, including Title IX Sexual Harassment and Sexual Misconduct, or participating in any proceeding pursuant to the Policy;
- a presumption that the Respondent is not responsible until a determination is made at the conclusion of the formal resolution process;
- written notice of any meeting or proceeding at which the party's presence is contemplated by the Policy or this Resolution Process, including the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- freedom to discuss the allegations under investigation or to gather and present relevant evidence;
- the opportunity to be accompanied by an advisor of choice, including the right to have that advisor accompany the party at any meeting or proceeding, and to have the University provide an advisor at no cost to conduct questioning on the party's behalf at any hearing;
- an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, by an impartial decision-maker;
- reasonably prompt time frames with permissible extensions for good cause;

- written notice of a Formal Complaint (*i.e.*, investigation), including notice of potential Policy violations and the nature of the alleged Prohibited Conduct;
- timely and equal access to any information that will be used during formal resolution pursuant to this process and any related meeting or proceeding under this Policy, including all information gathered that is directly related to the allegations in the formal complaint as well as the information contained in the investigation report;
- reasonable time to prepare any response contemplated by the formal resolution process;
- timely, written notice of the hearing;
- the opportunity, through a party's advisor of choice or hearing advisor provided by the University, to question the other party or any witnesses during the hearing;
- the opportunity to be heard, verbally and/or in writing, as to the determination of a Policy violation and the appropriate sanction;
- written notice of the outcome of any Formal Resolution, including the determination of a Policy violation, any sanctions, and the rationale; and
- the opportunity to appeal the outcome of the hearing, as described below.

## **B. Participation by the Parties Generally**

The Investigator may receive any information presented by the parties, but the Investigator, not the parties, is responsible for gathering relevant evidence. The Reporting Party and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, and other evidence, if available. The parties are encouraged to provide all relevant information as soon as possible to facilitate prompt resolution. In the event that a party declines to voluntarily provide material information or delays in doing so, the University's ability to conduct a prompt, thorough, and equitable investigation may be impacted. The University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, but the parties should be advised that doing so in a way that constitutes Harassment or Retaliation may subject them to additional policy violations.

### **1. Obligation to Provide Truthful Information**

All University community members are expected to provide truthful information in any report or proceeding under this Resolution Process and are further expected to cooperate in any such proceeding. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Sexual Misconduct is prohibited and may lead to administrative or disciplinary action under other applicable University policies. This provision does not apply to reports made or information provided in good

faith, even if the information alleged in the report is not later substantiated or no Policy violation is found to have occurred.

## **2. Obligation to Participate by University Employees**

The University expects all Faculty and Staff to cooperate fully in the investigation of Formal Complaints. In addition, except as limited under the Title IX regulations, Faculty and Staff may be required to participate in the investigation and resolution, and declining to cooperate in an investigation is subject to discipline up to and including termination of employment under other applicable University policies. The University will ensure that all participating Faculty and/or Staff are protected from retaliation for such participation.

### **C. Initiating an Investigation**

The VP of EEO-TIX will assign one or more trained investigators to conduct a prompt, thorough, fair, and impartial investigation. The VP of EEO-TIX will assign an Investigator, who may be a University employee or an external professional. The role of the Investigator will be to gather information through interviews of the Reporting Party, Respondent, and relevant witnesses, and to synthesize relevant information in a report that will be provided to the Reporting Party, the Respondent, and the Hearing Officer. The investigation report will include all relevant information provided by either party, including inculpatory and exculpatory information, that will be used in the determination of responsibility or sanction.

Any Investigator used by the University will be impartial and free from conflict of interest or bias and will receive annual training on the issues related to Sexual and Gender-Based Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and all other forms of Discrimination and Harassment under the Policy; the definition of Sexual Harassment in the Title IX regulations; the scope of the University's education programs and activities (to include employment and other University programs and activities); on how to conduct an investigation and resolution process that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of Reporting Parties while promoting accountability; how to create an investigation report that fairly summarizes relevant evidence; and how to serve impartially, including by avoiding prejudgment of the facts at issue, and free from conflicts of interest and bias.

### **D. Notice of Investigation**

After a Formal Complaint is filed and accepted, the VP of EEO-TIX will simultaneously notify the Reporting Party and the Respondent, in writing, of the following information:

- 15) the process for formal and alternative resolution;
- 16) a meaningful summary of all allegations with sufficient details regarding:
  - a. the identity of the Reporting Party and the Respondent, if known;
  - b. the date, time (if known), location, and precise nature of the reported conduct;
- 17) specific potential Policy violation(s);
- 18) the name and contact information of the Investigator;

- 19) how to challenge participation by the Investigator on the basis of a conflict of interest or bias;
- 20) information about the parties' respective expectations and responsibilities;
- 21) the University's prohibition against Retaliation;
- 22) the importance of preserving any potentially relevant evidence in any format;
- 23) information about the privacy of the process;
- 24) information about how a party may request reasonable accommodations for a disability or language diversity during the process;
- 25) a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the formal resolution process;
- 26) that the parties are entitled to an advisor of their choice, including an attorney advisor, and the advisor is permitted to review the evidence gathered in the investigation that is relevant or directly related to the investigation, and also that if parties at a hearing do not have an advisor, the University will provide one to them at no cost or charge;
- 27) that the University prohibits providing false or misleading information; and
- 28) a copy of the Policy and this Resolution Process.

If, at any time, the investigation reveals the existence of additional or different potential policy violations, including a violation of a supportive measure, the VP of EEO-TIX will promptly issue a supplemental notice of investigation to both parties detailing any additional allegations and corresponding potential Policy violations.

#### **E. Informational Meeting with the Respondent**

Upon the filing of a Formal Complaint and provision of the written notice of investigation, the University will provide outreach to a Respondent, in writing, to invite the Respondent to an informational meeting (in person or via live technology), similar to the intake meeting with the Reporting Party. The written communication will include notice of the date, time, location, participants, and purposes of the informational meeting, and will be provided with sufficient time for the Respondent to prepare to participate in the meeting. This meeting is informational in nature and is separate and distinct from a fact-gathering interview with the Investigator. At the informational meeting, the VP of EEO-TIX will provide the Respondent with information about resources, procedural options, and supportive measures, and an opportunity to ask any questions. In addition to the informational meeting, the University will provide the Respondent with written information about procedural options for alternative and formal resolution, reasonably available supportive measures and the process for requesting and obtaining those supportive measures, the range of disciplinary sanctions available upon a finding of responsibility for violating the Policy, the prohibition against retaliation, and how to report concerns of retaliation. The written information will also include information about campus and community resources and services, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other available services. Further, this written information will include a notification about the process for seeking disability-based accommodations, academic adjustments, and/or auxiliary aids under Section 504 of the Rehabilitation Act and/or other applicable federal, state, or local laws

## **F. Overview of Fact-Gathering Process**

During an investigation, the Investigator will seek to meet separately with the Reporting Party, Respondent, and relevant witnesses. The Investigator will send a written notice of the interview date, time, and location, name of participant(s), and purpose of the interview to the parties and witnesses, and any identified party advisor, in sufficient time for the party to prepare and participate. The Investigator will also independently gather other relevant information or evidence, including documents, photographs, communications between the parties, and medical records (subject to the consent of the applicable person), and other electronic records as appropriate, as well as identify relevant witnesses not identified by the parties.

The Investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding such privilege has waived the privilege. If a person voluntarily chooses to share medical or counseling records with the Investigator, they must sign a written consent that acknowledges that relevant information from the medical or counseling records must be shared with the other party to ensure the other party has notice of that information and an opportunity to respond.

At the conclusion of the investigation, the Reporting Party and the Respondent will both have the opportunity to review and respond to all information gathered in the investigation that is directly related to the allegations, including information shared by the Reporting Party or the Respondent during their interviews or through evidence that either party provides or that the Investigator independently gathers.

The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the Investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

The Investigator may also consider information publicly available from social media or other online sources that comes to the attention of the investigator. The EEO-TIX Office does not, however, actively monitor social media or online sources, and as with all potentially relevant information, the Reporting Party, Respondent, or witnesses are encouraged to bring online information to the attention of the Investigator.

The Investigator will seek to complete the fact-gathering stage of the investigation within sixty (60) to ninety (90) calendar days of the issuance of the notice of investigation. As detailed later in this process, the VP of EEO-TIX and the Investigator may grant limited extensions of time frames or temporary delays of the investigation for good cause with written notice to the Reporting Party and the Respondent of the delay or extension, and the reason(s) for the delay.

## **G. Witnesses**

Both the Reporting Party and Respondent have the option to provide names of potential witnesses to the Investigator. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, or

related matters. Witnesses may also be offered to provide subject matter expert information. Where witnesses are interviewed as part of the investigation, the name of the witness and the information gathered in the interviews will be shared with the parties at the conclusion of the investigation. The Investigator has the discretion to determine which of those potential witnesses, or other persons, may have relevant information about the alleged Sexual Misconduct. Witnesses may include individuals outside the University community.

Throughout the investigation, the Investigator will be alert to whether a witness may have been impacted by the effects of the reported Sexual Misconduct, and, if so, whether the witness should be treated as a Reporting Party under the Policy and this Resolution Process, and therefore entitled to equitable access to process afforded to Reporting Parties and Respondents.

## **H. Additional Evidence**

Both the Reporting Party and the Respondent are permitted to provide other relevant evidence to the Investigator. Such evidence may include any information presented in support of a party statement and may include text messages, email exchanges, timelines, receipts, photographs, etc. Any documentation shared by the Reporting Party or the Respondent with the Investigator will be provided to the other party. The Investigator may also consider additional documents, items, or other relevant information that the Investigator independently obtains through witnesses or otherwise during the course of the investigation. This information also will be shared with the parties.

During the course of the investigation, the parties are encouraged to bring any new or evolving evidence, such as harassing or retaliatory conduct, to the attention of the Investigator or VP of EEO-TIX. The Investigator may consider such information in the investigation and will also share any such information about retaliation or potential violation of the terms of a supportive measure and/or conduct that violates the Policy with the VP of EEO-TIX for consideration of appropriate action.

## **I. Evidentiary Considerations**

### **1. Medical or Counseling Records or other Legally-Privileged Documents**

Legally-privileged documents, including medical and counseling records of a Reporting Party and Respondent, are privileged and confidential records that individuals are not required to disclose. However, these records may contain relevant and material information and a party may voluntarily choose to share such records with the Investigator. In such circumstances, the University must obtain voluntary, written consent from the proffering party. Any records provided to the Investigator by a party will be available for review by the other party.

### **2. Prior Sexual History of a Reporting Party**

A Reporting Party's prior sexual history is generally not relevant, although evidence may be admitted if determined relevant in the following two circumstances only: 1) where Respondent alleges the sexual contact was consensual, and the evidence is offered as to the manner and nature of how the parties communicated consent in the past, as relevant in assessing whether consent

occurred with respect to the alleged Sexual Misconduct at issue, recognizing, however, that the mere fact of a current or previous dating or sexual relationship or activity between the parties, by itself, is not sufficient to constitute consent; and 2) to show that someone other than Respondent committed the alleged Sexual Misconduct.

Any party seeking to introduce information about prior sexual history should bring this information to the attention of the Investigator at the earliest opportunity. Where a sufficient informational foundation exists, the Investigator will assess the relevance, form, and reliability of the information and determine, in consultation with the VP of EEO-TIX, if it is appropriate for inclusion in the investigative report.

### **3. Prior or Subsequent Conduct**

In gathering information, the Investigator may also consider other reports of, or findings of responsibility for, the same or substantially similar conduct by the Respondent to the extent such information is relevant and available. Such information may be relevant in determining motive, intent, absence of mistake, pattern, or another material fact. For example, where there is evidence of a pattern of conduct the same or substantially similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be relevant and probative to the determination of responsibility and/or sanctioning, as applicable. Similarly, prior or subsequent conduct of a Reporting Party, even when it involves conduct that may violate University policy, may be considered when relevant.

Any party seeking to introduce information about prior or subsequent conduct should bring this information to the attention of the Investigator at the earliest opportunity. Where a sufficient informational foundation exists, the Investigator will assess the relevance, form, and reliability of the information and determine, in consultation with the VP of EEO-TIX, if it is appropriate for inclusion in the investigative report.

### **J. Evidence Review**

At the conclusion of the fact-gathering, the Investigator will make information gathered in the investigation available for review by the parties and any advisors. The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. The Investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have ten (10) calendar days to submit a written response, which the Investigator will carefully consider prior to completion of the investigative report. The written response may include comments or proposed questions for the Investigator to ask the other party, or identify additional witnesses or sources of evidence, which the Investigator will consider prior to completion of the investigative report.

## **K. Investigative Report**

The Investigator will produce a written investigation report that fairly summarizes the relevant information gathered during the investigation. The investigative report will include both inculpatory and exculpatory information. As noted above, the Investigator has the discretion to determine the relevance of any witness or other evidence.

The investigative report will include a recommendation by the Investigator whether the conduct alleged in the Formal Complaint and notice of investigation falls within the scope of the Policy and the definitions of Prohibited Conduct. In particular, the Investigator will determine whether the reported conduct, if substantiated, would constitute Title IX Sexual Harassment or another form of Sexual Misconduct. This assessment is not a determination of responsibility, nor does it involve a determination about the credibility of the information gathered; those decisions are reserved for the Hearing Officer. Rather, this evaluation accepts all information as presented by the Reporting Party as true in order to determine the potential Policy violations that would move forward to a hearing.

The VP of EEO-TIX will simultaneously provide the investigative report, along with a written notice of hearing, to the parties, their advisors, and the Hearing Officer, in an electronic format or a hard copy at least ten (10) calendar days prior to the scheduled hearing. The Reporting Party and Respondent may submit a written response to the investigation report that will be considered by the Hearing Officer. The written response may address the assessment of scope, the Investigator's determination of relevance, or any other information from the investigative report. The written response must be submitted within ten (10) calendar days of notice of the availability of the investigative report.

## **L. Review for Mandatory Dismissal Following Investigation**

The VP of EEO-TIX will review the Investigator's determination as to whether the conduct alleged in the Formal Complaint falls within the scope of the Policy and the definitions of Prohibited Conduct as outlined above.

The VP of EEO-TIX, in partnership and consultation with relevant stakeholders (*e.g.*, Employee Relations, Student Affairs, Faculty Affairs), may address unprofessional, disrespectful, and/or offensive conduct that: 1) does not rise to the level of creating a hostile environment or a violation of this Policy, or 2) is of a generic nature not clearly based on a Protected Characteristic; and/or 3) runs counter to the University's mission and values. Addressing such behaviors will not typically result in the imposition of disciplinary sanctions under the Policy, but may be addressed through restorative remedial actions, such as coaching, education, and/or effective conflict resolution or other alternative resolution mechanisms. However, the University reserves the right to take any action it deems, in its sole discretion, to be appropriate in response to such behaviors.

## **M. Acceptance of Responsibility**

At any point during the investigation, the Respondent may elect to accept responsibility for some or all of the Policy violations at issue. Where there is an acceptance of responsibility as to some but not all of the charges, the investigation will continue to conclusion and any acceptance of responsibility will be documented in the investigative report. Where there is an acceptance of

responsibility as to all of the potential Policy violations, the Investigator will complete an investigative report of all information gathered to date and, after consultation with the VP of EEO-TIX, will refer the matter for sanctioning, as described below. Where both parties agree, the matter may also be resolved through the alternative resolution process.

#### **N. Notice of Hearing**

The VP of EEO-TIX will simultaneously provide the Reporting Party and Respondent with a written Notice of Hearing. The Notice of Hearing will include: the specific Policy violations that will be the subject of the hearing; the date, time, and location of the hearing; the name of the Hearing Officer; instructions on how to challenge participation of the Hearing Officer on the basis of conflict of interest or bias; a statement that all evidence that is directly related to the allegations, as shared in evidence review, will be available to enable each party an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; a statement that the parties can challenge the Investigator's determination of relevance at the hearing; a statement that the parties have the right to have an advisor present at the hearing, who will conduct questioning on the party's behalf; a statement that the University will provide a hearing advisor, without fee or charge, to conduct questioning on behalf of the party at the hearing, if the party does not already have an advisor present for the hearing; information regarding how to request that witnesses be present at the hearing; information about the hearing format; and information regarding the right to request reasonable accommodations for disability or language diversity at the hearing.

#### **O. Hearing Officer: Role, Procedure, and Responsibility**

A Hearing Officer is a fair and impartial decision-maker who will conduct an objective evaluation of all relevant evidence, including both inculpatory or exculpatory evidence. The Hearing Officer is typically an external, trained professional, although it may be a campus administrator. The role of the Hearing Officer is to provide all parties with an equitable opportunity to be heard and to reach a full and fair determination as to responsibility and imposition of any sanction, should there be a finding of responsibility. The Hearing Officer must be trained in how to serve as an informed and impartial decision-maker; this training will include training content provided to investigators, as well training on any technology to be used at a live hearing and on issues of relevance of questions and evidence. The Hearing Officer may reach credibility determinations, but may not base credibility determinations on a person's status as a Reporting Party, Respondent, or witness. Where a Reporting Party or Respondent declines to participate in a hearing, the Hearing Officer may not make an adverse inference against that party.

The Hearing Officer must be free of conflict of interest or bias for or against either party. The Reporting Party and Respondent will be provided the name of the Hearing Officer in advance and have the opportunity to raise a challenge for bias or conflict of interest to the VP of EEO-TIX prior to the hearing. The VP of EEO-TIX will render a determination in writing on any such challenge.

The Hearing Officer will review the investigative report and any written statements provided by the parties in response to the investigative report, all exhibits, and any additional relevant evidence introduced at the hearing.

The Hearing Officer will determine whether there is sufficient evidence, by a preponderance of the evidence, to support a finding of responsibility as to each element of each Policy violation at issue. The Hearing Officer will not determine sanction.

#### **P. Hearing Format**

The hearing will be live and require the participants to simultaneously see and hear each other. A hearing may be conducted with all parties physically present in the same geographic location. Alternatively, at the discretion of the VP of EEO-TIX, any or all parties, witnesses, or other participants may appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other. Either party may request that the parties be located in separate rooms or locations for the hearing, with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or witness answering questions. Such a request should be submitted to the VP of EEO-TIX at least two (2) calendar days prior to the hearing. Nothing in this section requires the parties to appear in-person before the Hearing Officer and the hearing may proceed with all parties participating virtually as appropriate and necessary. The format of the hearing (*e.g.*, in person or virtual) is at the discretion of the Hearing Officer and/or VP of EEO-TIX.

The hearing is an opportunity for the parties to address the Hearing Officer. The parties may address any information in the investigative report and supplemental statements submitted in response to the investigative report. The University will make all evidence directly related to the allegations, as shared in the evidence review, available to the parties at the hearing to give each party an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

The Hearing Officer has the discretion to determine the format of the hearing and its deliberations. Typically, the Reporting Party and Respondent will have an opportunity to provide an opening statement to the Hearing Officer. Each party will then have an opportunity to address the Hearing Officer and respond to questions by the Hearing Officer, or, as described below, the other party's advisor. The Hearing Officer will also hear from relevant witnesses, including the Investigator. Each party will have the opportunity to question the other party, the witnesses, and the Investigator through their advisor of choice – or hearing advisor provided by the University – directly, verbally, and in real-time. If a party does not have an advisor present at the live hearing, the University will provide an advisor, free of charge, who may be, but is not required to be, an attorney, for questioning on behalf of that party.

Only relevant questions may be asked of a party or witness. Before a Reporting Party, Respondent, or witness responds to a question, the Hearing Officer will first determine whether the question is relevant and briefly explain any decision to exclude a question as not relevant, as defined in this Resolution Process. Questions related to the following areas of inquiry are irrelevant: information protected by a legally-recognized privilege, or any party's medical, psychological, and similar records, unless the party has given voluntary, written consent; and information about the Reporting Party's prior sexual history, except as described above.

If a party or witness does not submit to questioning by the other party's advisors at the hearing, the Hearing Officer may not rely on any statement of that party or witness in reaching a

determination regarding responsibility. The Hearing Officer may not draw any adverse inference from the decision of a party or witness to not participate at the hearing.

The Hearing Officer may directly ask questions and elicit information from parties, witnesses, and/or the Investigator to aid the Hearing Officer's findings of fact, conclusions regarding the application of the Policy to the facts, and the determination of responsibility. The parties and their advisors may not engage in the direct examination of any individual at the hearing.

After all parties and witnesses have been heard, the parties will have an opportunity to provide a closing statement.

The advisor may not provide the opening or closing statement and may not provide answers or responses on behalf of a party. The advisor's role during the hearing is to conduct questioning of the other party and any witnesses. A party may never conduct questioning of the other party themselves.

At the conclusion of the hearing, the Hearing Officer will deliberate in private to determine whether there is sufficient evidence, by a preponderance of the evidence, that Respondent engaged in conduct that violated the Policy. The Hearing Officer will draft a written notice of determination that will be distributed as follows:

- Where there is a finding of non-responsibility, the VP of EEO-TIX will issue a written notice of determination as set forth below.
- Where there is a finding of responsibility, the VP of EEO-TIX will initiate the sanctioning process. Following a finding of responsibility, a Sanctioning Officer/Panel will determine the appropriate sanction based on all available information, and the written notice of determination will be distributed as set forth below.

The hearing will be audio-recorded by the University. Neither the parties, nor any participants or observers, will be permitted to make any audio or video recordings of the hearing. However, upon request, the hearing transcript will be made available to the parties for review and inspection.

#### **Q. Standard of Evidence**

The standard of review that the University will use when reviewing a Formal Complaint and making related determinations is preponderance of the evidence. This means that the University will decide whether it is more likely than not, based upon the available information, that the Respondent is responsible for the alleged Policy violation(s).

A Respondent is presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the resolution process.

#### **R. Sanctioning**

The composition of the Sanctioning Panel/Officer will be determined by the role of the Respondent:

- For Student Respondents, the Sanctioning Panel will be composed of two employees appointed by the Provost and Senior Vice President for Academic Affairs, and one student appointed by the Vice President for Student Affairs.<sup>23</sup>
- For Faculty Respondents, the Committee on Professional Responsibility will serve as the Sanctioning Panel. Under the Faculty Handbook, the Committee on Professional Responsibility is a subcommittee of the Committee on Tenure and Privileges Appeals Committee. It is appointed by the Provost after consulting with the Chair of the Committee on Tenure and Privileges Appeals and the President of the Faculty. It will include past Presidents of the Faculty, if available, and research-, teaching-, practitioner-, or clinical-track faculty members.
- For a Staff Respondent, the Sanctioning Officer is a delegate of the Senior Vice President for Human Resources.

The Sanctioning Panel/Officer will convene no later than ten (10) calendar days following the referral of the Hearing Officer's finding of facts and determination of responsibility. The Sanctioning Panel/Officer is responsible for reviewing the investigative report, written responses to the investigative report, the Hearing Officer's finding of facts and determination of responsibility, and any mitigation or impact statements submitted.

### **1. Impact and Mitigation Statements**

The Reporting Party may submit a written statement describing the impact of the Sexual Misconduct on the Reporting Party. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The VP of EEO-TIX will provide any statement(s) to the Sanctioning Panel/Officer. Each party has the opportunity to view the other party's statement prior to the imposition of sanction.

### **2. Sanctioning Considerations**

The Sanctioning Panel/Officer is responsible for reviewing the investigation report, the Hearing Officer's notice of determination, any mitigation or impact statements submitted, and all other submissions from the parties, and determining the appropriate sanction.

In determining sanction, the Sanctioning Panel/Officer will consider the following factors:

- the nature and severity of the conduct;
- the impact of the conduct on the Reporting Party;
- the impact or implications of the conduct on the community or the University;
- prior misconduct for which the Respondent has been found responsible, including the Respondent's relevant prior discipline history, both at the University or elsewhere (if available), including criminal convictions;

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<sup>23</sup> The student should be an undergraduate student in the case of an undergraduate student Respondent, and a graduate student in the case of a graduate student Respondent.

- whether the Respondent has accepted responsibility for the conduct;
- maintenance of a safe and respectful environment conducive to learning, including whether there is a continued hostile environment on campus caused by the Respondent's conduct;
- presence or absence of bias as a motivation for the Respondent's conduct;
- protection of the University community requiring extended protective measures or other sanctions; and
- any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

The Sanctioning Panel/Officer will draft a written sanctioning determination that will include the sanction and the rationale for the sanction, and forward it to the EEO-TIX Office within five (5) calendar days for inclusion in the written notice of determination set forth below.

In the event the Sanctioning Panel/Officer recommends dismissal of a tenured faculty member, that information should be included in the written sanctioning determination that is forwarded to both the parties and the Provost.

The imposition of sanctions will take effect immediately and will not be stayed pending the resolution of any appeal.

### **3. Range of Sanctions**

Sanctions imposed upon Students can include a range of sanctions, including one or more of the following: warning, censure, education, counseling, disciplinary probation, loss of privileges, suspension or expulsion from University housing, suspension or expulsion from University premises, and/or suspension or expulsion from the University's academic or extracurricular programs. Any of these sanctions may be supplemented with additional required actions by the Respondent.

Sanctions imposed on employees, including Staff and Faculty, can include one or more of the following: warning, censure, education, counseling, disciplinary probation, paid or unpaid suspension of employment, demotion, or termination of employment.

For tenured Faculty Respondents, the Sanctioning Panel may recommend that the Provost initiate formal charges for termination consistent with Chapter 8 of the Faculty Handbook. This recommendation will consider whether the findings and conclusions meet the criteria stated in Section 8-C of the Faculty Handbook for adequate cause for dismissal of a tenured faculty member. The Provost may decide to bring formal charges and, if so, the charges shall be considered pursuant to the formal proceedings set forth in Section 8-D (2) of the Faculty Handbook, commencing with Step 4. Formal charges are heard by a dismissal Hearing Board as provided in Step 5 of Section 8-D (2). It is up to the Provost to decide whether to file formal dismissal charges, regardless of whether the panel has recommended them. At the conclusion of the tenure dismissal process, the Provost will communicate the sanctioning determination to the VP of EEO-TIX.

## S. Remedies

The VP of EEO-TIX will review the determination of responsibility and sanction, if any, to determine whether additional remedies for the Reporting Party or the University community are necessary to restore and preserve equal access to the University's education program and activity. Examples of such remedies may include the continuation or initiation of supportive measures, including the provision of counseling, academic services, escort services, and/or training for members of the University community, as well as modifications to academic, employment, or housing conditions or assignments.

## T. Written Notice of Outcome

The Hearing Officer and Sanctioning Panel/Officer will prepare a written decision, including the finding of responsibility or non-responsibility, and rationale. The VP of EEO-TIX will issue the written notice of outcome to the Reporting Party and Respondent within ten (10) calendar days following the conclusion of the deliberations. The notice of outcome will include:

- (v) Identification of the allegations potentially constituting Sexual Misconduct;
- (vi) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- (vii) Findings of fact supporting the determination;
- (viii) Conclusions regarding the application of the Policy to the facts;
- (ix) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Reporting Party; and
- (x) The procedures and permissible bases for the Reporting Party and Respondent to appeal.

## U. Appeals

Both a Reporting Party and Respondent have the right to appeal the dismissal of the Formal Complaint, the final determination of responsibility, and/or the resulting sanction based on the following three limited grounds:

4. **Procedural irregularity that affected the outcome of the matter.** Procedural or technical irregularities will not be sufficient to sustain an appeal unless found to have affected the outcome of the Formal Complaint.
5. **New evidence, not reasonably available at the time of the hearing, regarding responsibility or dismissal of the Formal Complaint, that could affect the outcome of the matter.**<sup>24</sup> An appeal on this basis is limited to new evidence that

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<sup>24</sup> The time frame for filing an appeal based on newly-discovered information may be extended at the discretion of the VP of EEO-TIX where the evidence could not reasonably have been discovered within the time frame and a

was not reasonably available at the time the determination regarding responsibility was made and that could affect the outcome of the Formal Complaint. The appeal must specify the new evidence that was not reasonably available at the time of the determination, why the evidence was unknown or unavailable, and how the new evidence could affect the outcome of the Formal Complaint.

- 6. The VP of EEO-TIX, Investigator(s), Hearing Officer, or Sanctioning Officer/Panel had a conflict of interest or bias for or against Reporting Parties or Respondents generally, or the individual Reporting Party or Respondent, that affected the outcome of the matter.** The appeal must specify the basis on which the party believes there is an actual conflict of interest or bias that affected the outcome of the matter.

A concise written request for appeal must be submitted to the VP of EEO-TIX within seven (7) calendar days following delivery of either the notice of the outcome in the event of a finding of non-responsibility, or the written sanctioning decision in the event of a finding of responsibility. Each party may respond in writing to any appeal submitted by the other party. Written responses must be submitted within seven (7) calendar days following delivery of the notice of the written appeal. Written requests for appeal submitted by one party will be shared with the other party.

The designated Appellate Authority may be an external professional or a University administrator who is appropriately trained and free from conflict of interest or bias. Depending on the identity of the Respondent at the time of the alleged Sexual Misconduct, the Appellate Authority may be:

- For a Student Respondent, the Appellate Authority is a delegate of the Vice President of Student Affairs who is not otherwise involved in any step of the process.
- For a Faculty Respondent, the Appellate Authority is a delegate of the Provost who is not otherwise involved in any step of the process.
- For a Staff Respondent, the Appellate Authority is a delegate of the Senior Vice President for Human Resources who is not otherwise involved in any step of the process.

Either party may challenge the Appellate Authority on the basis of conflict of interest or bias.

The Appellate Authority will review the written appeal submissions by the parties, the investigative report (including all exhibits and related materials), and the written notice of outcome. The Appellate Authority may: (a) affirm the findings or determination of responsibility; (2) affirm or modify the sanction(s); or (3) remand the matter for reevaluation or further investigation. The Appellate Authority will issue a simultaneous written decision to the parties within (10) calendar days of receipt of the appeal. In reaching a decision, the Appellate Authority has the discretion to consult with relevant stakeholders.

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compelling justification exists for its consideration.

The decision by the Appellate Authority is final.

## **V. Time Frame for Resolution**

The University will seek to complete the formal resolution process in a prompt and timely manner consistent with the reasonably prompt timeframes for the major stages of the process designated in this Resolution Process. The University may extend any timeframe in this Resolution Process for good cause. An extension may be required for good cause to ensure the integrity and thoroughness of the investigation; to comply with a request by law enforcement; in response to the unavailability of the parties (or their advisors) or witnesses; based on the need for language assistance or accommodation of disabilities; or for other legitimate reasons, such as intervening breaks in the academic calendar, finals periods, the complexity of the investigation, the volume of information or length of the written record, and/or the severity and extent of the alleged misconduct. While requests for delays by the parties may be considered, the University cannot unduly or unreasonably delay the prompt resolution of a report under this Policy.

Reasonable requests for delays by the parties will serve to extend the anticipated time period for resolution of the report. The VP of EEO-TIX, in consultation with the Investigator, has the authority to determine whether an extension is required or warranted by the circumstances, and will notify the parties in writing of any extension of the timeframes for good cause and the reason for the extension.

The University's overarching goal is that all complaints be investigated in a prompt, fair, and impartial manner. Although cooperation with law enforcement may require the University to suspend the fact-gathering portion of the investigation temporarily, the University will promptly resume its investigation as soon as it is notified by law enforcement that it has completed its initial evidence gathering process. The University will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide appropriate supportive measures for the Reporting Party and Respondent.

## **VIII. Alternative Resolution**

Following receipt of a Formal Complaint, the University may resolve reports through Alternative Resolution, as appropriate based on the circumstances. Alternative Resolution is available only once a Formal Complaint has been filed, prior to a determination of responsibility, and if the Reporting Party and Respondent voluntarily consent to the process in writing. Under the Title IX regulations, the Policy, and this Resolution Process, Alternative Resolution is not available in cases in which an employee (faculty or staff) is alleged to have sexually harassed a student. In all cases, the VP of EEO-TIX will have discretion to determine whether or not Alternative Resolution, or any particular form of Alternative Resolution, is appropriate to the circumstances.

Alternative Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent; mediation; indirect action by the EEO-TIX Office or other appropriate University officials; and other forms of resolution that can be tailored to the needs of the parties. With the voluntary consent of the parties, alternative resolution may be used

to impose agreed-upon disciplinary sanctions. Any person who facilitates an Alternative Resolution will be trained and free from conflicts of interest or bias for or against either party.

If the parties are interested in pursuing Alternative Resolution, the VP of EEO-TIX will send written notices to the parties describing:

1. the allegations at issue;
2. the requirements of the Alternative Resolution process;
3. the circumstances under which the parties are precluded from resuming a Formal Complaint arising from the same allegations;
4. the right to end the Alternative Resolution process at any time prior to resolution and resume the Formal Complaint process; and
5. the consequences resulting from participating in the Alternative Resolution, including that the records and communications created or maintained as part of the Alternative Resolution process may be viewed by parties, or later used or considered in the Formal Complaint process, including in an investigation or at a hearing if found to be relevant by the Investigator or Hearing Officer.

All parties will be required to return signed copies of the written notices agreeing to the Alternative Resolution process.

With any form of Alternative Resolution, each party has the right to choose and consult with an advisor, or request that one be provided to them by the University, if available. The advisor may be any person, including an attorney, who is not otherwise a party or witness to the reported incident(s). The parties may be accompanied by their respective advisors at any meeting or proceeding held as part of Alternative Resolution. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

Any form of Alternative Resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to the University, the Reporting Party, and the Respondent is reached through Alternative Resolution, the terms of the agreement are implemented and the matter is resolved and closed. The VP of EEO-TIX or designee will monitor the implementation of the agreement as appropriate. If an agreement between the parties and subject to the VP of EEO-TIX's approval is not reached or if a Respondent fails to comply with the terms of the Alternative Resolution, the Formal Complaint may be referred for investigation or an investigation may resume under the formal resolution process. Depending on the terms of the Alternative Resolution agreement, the matter may be considered closed, and the parties will be precluded from filing another Formal Complaint arising from the same set of facts or circumstances.

Prior to reaching a resolution, any party can withdraw from the Alternative Resolution process, and the University will resume the Formal Complaint process. The University's goal is to complete

an Alternative Resolution within thirty (30) calendar days of the parties' written agreement to participate in the process. If the University anticipates the process will take longer, written notification will be provided to the parties with an explanation regarding the delay.