



STUDENT SEXUAL MISCONDUCT POLICY

CHAPMAN UNIVERSITY

Student Sexual Misconduct Policy

STUDENT SEXUAL MISCONDUCT POLICY	2
POLICY STATEMENT	3
TO WHOM POLICY AND PROCEDURES APPLY	3
DEFINITION OF TERMS	4
PROHIBITED CONDUCT	6
OTHER POTENTIALLY RELEVANT POLICIES AND PROCEDURES	10
SUPPORTIVE MEASURES, EMERGENCY REMOVAL, AND RESOURCES	12
INFORMATION ON REPORTING	16
GENERAL PRINCIPLES OF INVESTIGATION AND ADJUDICATION	21
INITIAL ASSESSMENT	25
WAYS TO RESOLVE A FORMAL COMPLAINT.....	27
ALTERNATIVE RESOLUTION	27
INVESTIGATION	28
HEARING	30
FINDINGS AND APPEALS.....	35
RECORDS RETENTION	38

Policy Statement

Chapman University is deeply committed to creating and sustaining an educational, working, and living environment that is conducive to learning and scholarship and is supportive of students and employees. Part of this commitment is fostering a campus free of discrimination and harassment on the basis of sex, including gender identity, gender expression, sexual orientation, pregnancy, or parenting status in all its forms.

Sex and gender/sex-based harassment or discrimination can take many forms, including sexual assault, dating violence, domestic violence, stalking, sexual exploitation, or other forms of sex-based or gender-based harassment or discrimination. These types of conduct are prohibited under this policy, Chapman University's Interim [Discrimination, Harassment, and Retaliation Prevention Policy](#), Interim [Policy on Harassment Prohibited by Title IX](#), the Student Conduct Code, and applicable State and Federal laws.

The University's goal is to foster an open and safe community where these behaviors are deemed unacceptable, where those who are affected are provided support, and where a fair and impartial review process is provided to all parties. The University's response to allegations of prohibited conduct under this policy is grounded in the fair application of policy and procedure.

The University is firmly committed to complying with all applicable laws and governmental regulations. This commitment applies to all educational programs and activities, including admissions, financial aid, and University programs.

To Whom Policy and Procedures Apply

This policy applies in its entirety to Chapman University students and student groups. The sections on information, resources, and procedures also apply to faculty and staff members and third parties who report allegations of discrimination or harassment based on sex that they have experienced by students. Although the University may be, at times, limited in its control of third parties, the prohibited behaviors defined in this policy articulate the behavioral expectations Chapman University holds for third parties, though the procedural requirements will not apply.

Definition of Terms

- A. **Complainant** – the Chapman University student, faculty, or staff member or student group reported to have experienced conduct prohibited by this policy from a Chapman University student.
- B. **Formal Complaint** - a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a violation of this policy by a University student and requesting that the University investigate the allegation(s). A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party. A Formal Complaint shall trigger an investigation except as specified below. The Formal Complaint should include the date(s) of the alleged incident(s), the name of the Respondent, and should describe the circumstances of the incident(s), where known.
- C. **Hearing Officer(s) (*may also be referred to as hearing board/body or conduct officer/board/body*)** – any person(s) authorized by the Vice President for Student Affairs/Dean of Students or designee to decide whether a student(s)/group(s) has violated this policy the Code and to assign sanctions when a policy violation is determined to have been committed.
- D. **Hearing Coordinator** – any person appointed by the Vice President for Student Affairs/Dean of Students or the Vice President’s designee to manage hearings under this policy.
- E. **Investigator** – any person appointed by the Title IX Coordinator to gather information to be considered as part of a hearing or other adjudicative process.
- F. **Presiding Officer** – an individual authorized by the Vice President for Student Affairs/Dean of Students or the Vice President’s designee to organize, administer and make decisions regarding the proceedings of a hearing within the conduct process.
- G. **Respondent** – the individual alleged to have committed conduct prohibited by this Policy.

- H. Student** – a person taking courses at or through Chapman University (including Study Abroad, travel courses, internships, externships, independent studies, online courses, and off-site study trips) either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Persons who are not officially enrolled but who have a continuing academic relationship with the University are considered “students.” This includes students not currently enrolled who are making up incompletes and former students still living in University-owned housing. This policy also applies to persons who have been accepted for admission to the University but have not yet begun coursework.
- I. Student Group** (may also be referred to as student club, chapter, or organization)
– any number of persons organized in manners including but not limited to: clubs and organizations, Greek lettered organizations, athletic teams, club sports, governing bodies, societies, departmental student organizations or committees, any other University recognized student organization, any student organization seeking University recognition, or any student organization not recognized or sponsored by the University. While student groups will not be treated as parties to an investigation of student sexual misconduct under this policy, they may be identified as Complainants or Respondents in non-Title IX adjudicative processes as described in the Code.
- J. Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or deter sexual harassment. 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, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures may also include written notification about available services both within the institution and the community and options for available assistance as required by the Clery Act. Supportive measures are not disciplinary measures.
- K. Third Party** – Any individual who is not a University student, faculty or staff member. Third parties may be guests who enter University property or attend a University sponsored event.
- L. Title IX Coordinator** – the person designated by the University to coordinate the University’s efforts to comply with its responsibilities under Title IX of the Education Amendments of 1972.

M. Witness – any person(s) who can be called upon to provide relevant information about an incident in which they are not the Respondent or Complainant. Witnesses may be excluded from a hearing if:

- a. They did not respond to or investigate the incident in question;
- b. They can only provide repetitive information;
- c. They did not communicate with the Respondent or Complainant about the incident in question;
- d. They lack personal knowledge of the incident;
- e. They can only present information that is deemed to be unnecessary for the deliberation process; or
- f. They are identified as expert witnesses and do not have personal knowledge of the incident(s) alleged to be a violation of this policy.

Prohibited Conduct

Chapman students are entitled to an educational environment that is free of discrimination and harassment. This policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under this policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of University policy, though supportive measures will be offered to those impacted.

Sexual Harassment

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. The University prohibits sexual harassment, which is conduct based on sex, including gender identity, gender expression, or sexual orientation, that satisfies one or more of the following definitions:

A. Quid Pro Quo: An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;

B. Unwelcome Conduct: 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 recipient's education program or activity; or

C. Sexual assault:

Sex Offenses—Any sexual act directed against another person, without the affirmative consent of the victim including instances where the victim is incapable of giving affirmative consent. Sexual Act is defined as conduct between persons consisting of:

- a. Contact between the penis and the vulva.
 - b. Contact between the penis and the anus.
 - c. Contact between the mouth and the penis.
 - d. Contact between the mouth and the vulva.
- a. **Non-Consensual Penetration:** The actual or attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the affirmative consent of the Complainant. This includes penetration that is forcible and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving affirmative consent because of age or because of temporary or permanent mental or physical incapacity.
- b. **Fondling:** The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, without affirmative consent. This includes fondling that is forcible and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving affirmative consent because of age or because of temporary or permanent mental or physical incapacity.
- c. **Other Lawfully Prohibited Sexual Intercourse**
This category includes prohibited conduct that does not meet the definition of Non-Consensual Penetration or Fondling.
 - i. Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law, regardless of affirmative consent.
 - ii. Nonforcible sexual intercourse with a person who is under the statutory age of consent, regardless of affirmative consent.

D. Dating Violence, defined as: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the

threat of such abuse.

E. Domestic Violence, defined as: a felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the Complainant;
- By a person with whom the Complainant shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of California;
- By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of California.

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

F. Stalking, defined as: engaging in a course of conduct directed at a specific person that would cause a reasonable person to –

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

For the purposes of this definition—

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

*Conduct on the basis of sex: Includes conduct that is verbal, visual, or physical. Conduct on the basis of sex may be explicitly sexual or may involve conduct that

derives its sexual nature from the circumstances in which the conduct occurs or when combined with other conduct that occurs in a sexual context. Conduct does not need to express any sexual desire or be directed to a specific person and can include conduct that attempts to demean, control, or stereotype others on the basis of their sex, including gender identity, gender expression, or sexual orientation.

*Unwelcome conduct: For purposes of this policy, conduct is considered “unwelcome” if, under the totality of the circumstances, it is 1) neither solicited nor incited, and 2) is regarded by the Complainant as undesirable or offensive.

*Objectively offensive: Conduct that would be offensive to a reasonable person under similar circumstances and with similar identities; considering the totality of the known circumstances.

Sexual Exploitation

Sexual Exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person, without that person's consent. Examples of behavior that could rise to the level of sexual exploitation include but are not limited to: prostituting another person; recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent; distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and, viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire. Sexual exploitation may occur regardless of whether sexual activity takes place.

Affirmative Consent

Affirmative consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.

- Lack of protest or resistance does not mean consent.
- Silence does not mean consent.

- The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

It shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:

- The Complainant was asleep or unconscious.
- The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity.
- The Complainant was unable to communicate due to a mental or physical condition.

In addition, it shall not be a valid excuse to allege lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

- The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent.
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

Retaliation

Retaliation is adverse action taken against anyone for reporting, supporting, or assisting in the reporting and/or adjudication of any of the behaviors prohibited in this policy, or against anyone perceived to be involved in any of these actions. Retaliation may include intimidation, violation of a No Contact order, harassment, efforts to impede an investigation, or filing a false or bad faith cross-complaint. Retaliation under this policy is prohibited by University policy, state, and federal law. Retaliation is a violation of policy regardless of whether the underlying complaint is found to be a violation of policy. Retaliatory conduct will be handled under the Student Conduct Code.

Other Potentially Relevant Policies and Procedures

If the respondent is a staff employee

The policy and procedures for responding to reports of prohibited conduct committed by University staff employees, including postdoctoral candidates, are described in the

University's [Discrimination, Harassment, and Retaliation Policy](#) and the [Policy on Harassment Prohibited by Title IX](#). These procedures do not apply to non-student respondents.

If the respondent is both a student and a staff employee

If respondent is a student and a staff employee, the University's Director of Equal Opportunity/Deputy Title IX Coordinator and Lead Title IX Coordinator will determine which policies and procedures apply, either this policy or the University's [Discrimination, Harassment, and Retaliation Prevention Policy](#) or the [Policy on Harassment Prohibited by Title IX](#). The determination will be based upon the facts and circumstances of the alleged behavior, including the context of the prohibited conduct, the roles of the parties at the time of the conduct, and the location of the incident. Once that determination is made, the Title IX Coordinator, Title IX Deputy Coordinator/Equal Opportunity and Diversity Officer or designee(s) will notify the parties which policies and procedures will apply.

If the respondent is faculty

If the respondent is a faculty member, the University's Deputy Title IX Coordinator and Equal Opportunity and Diversity Officer will coordinate the investigation and follow the policy and procedures set forth in the University's Faculty Handbook, which is available in the Office of Human Resources or the Interim [Policy on Sexual Harassment Prohibited by Title IX](#).

If the respondent is a student and teaches classes at the University

If the respondent is a student and also teaches a class at the University (i.e. is a lecturer, instructor, or adjunct faculty), the University's Director of Equal Opportunity/Deputy Title IX Coordinator and Lead Title IX Coordinator or the Interim [Policy on Harassment Prohibited by Title IX](#). The determination will be based upon the facts and circumstances of the alleged behavior, including the context of the prohibited conduct, the roles of the parties at the time of the conduct, and the location of the incident. Once that determination is made, the Title IX Coordinator, Title IX Deputy Coordinator/Equal Opportunity and Diversity Officer or designee(s) will notify the parties which policies and procedures will apply.

If the respondent is a student group

The University may address prohibited conduct alleged to be committed by and in relation to student groups as set forth in the [Student Conduct Code](#). Policies and honor codes promulgated by individual schools and colleges that govern student groups or internal accountability processes that some groups may have may also address prohibited conduct committed by student groups but may not serve in place of the procedures set forth in this policy and the Student Conduct Code.

If the Complainant or the Respondent is a Third Party

If the Complainant or the Respondent is a third party, the University's ability to take action may be limited and is determined by the context of the prohibited conduct and the

nature of the relationship of the third party to the University. The Title IX Coordinator and/or Equal Opportunity and Diversity Officer/Title IX Deputy Coordinator will determine the appropriate manner of resolution, which may include referral to resources or to area law enforcement, restriction from access to campus or University activities in the case of respondents, or referral to the Title IX Coordinator of the home school of the Third Party.

Note: Complaints involving third-party contractors, employees of third-party contractors, and temporary employees will be referred to Human Resources for review and appropriate action. Policies and procedures for University employees will govern the review of the complaint and can be found in the University's Interim [Discrimination, Harassment and Retaliation Prevention Policy](#) or the Interim [Policy on Sexual Harassment Prohibited by Title IX](#).

The University will offer resources and assistance to all community members who experience or are affected by alleged prohibited conduct. In instances when this policy does not apply, the University will assist in identifying and contacting external law enforcement agencies and appropriate campus or community resources.

Supportive Measures, Emergency Removal, and Resources

Supportive Measures

Supportive measures are available to complainants, respondents, and witnesses and may be accessed by contacting the Title IX Coordinator or the assigned investigator (if applicable).

Supportive measures are available regardless of whether the Complainant chooses to report full details (such as the name of the Respondent) to the University or to law enforcement or file a formal complaint with the University. Supportive measures shall be confidential, to the extent that maintaining confidentiality does not impair the University's ability to provide such measures.

When a student or employee reports to the University that they have experienced conduct prohibited by this policy, whether the incident(s) occurred on or off campus, the University shall provide the individual with written information about resources and options. The University shall also provide the individual with written notification of health and mental health resources as well as other referrals or services as requested and available both on and off campus.

Supportive measures for students

The University shall provide, without fee or charge, supportive measures (temporary and/or ongoing) as reasonably available. These measures may not unduly burden a respondent. Students who are complainants, respondents, and witnesses may make requests for supportive measures to the Title IX Coordinator, who will help identify all available options and determine which measures to take to support the student.

Supportive measures for students may include, but not be limited to, the following options:

- Academic Assistance
 - Transferring to another section of a lecture or laboratory
 - Rescheduling an academic assignment or test
 - Accessing academic support (e.g., tutoring)
 - Arranging for incompletes, a leave of absence, or withdrawal from course(s)
 - Preserving eligibility for academic, athletic, or other scholarships, financial aid, internships, study abroad, or international student visas
- Medical and mental health services, including counseling
- Change in campus housing and/or dining locations
- Assistance in finding alternative housing
- Consultation with the Department of Public Safety or local law enforcement agency as appropriate
- Assistance in arranging for alternative University employment arrangements and/or changing work schedules
- Providing an escort to ensure that the student can move safely between school programs and activities
- Transportation and parking assistance
- Assistance identifying any additional resources including off-campus support and services
- Stay away orders
- No contact orders
- Transfer to another class/laboratory section

Supportive measures for employees

For employees, supportive measures in the case where the Respondent is a student may include, but not be limited to:

- Assistance in arranging for alternative University employment arrangements and/or changing work schedules
- Providing an escort to ensure that the employee can move safely around campus
- Consultation with the Department of Public Safety or local law enforcement agency as appropriate
- Transportation and parking assistance

- Assistance identifying any additional resources including off-campus support and services
- No contact orders
- Life Assistance Program (LAP)

Emergency Removal for Students

For most cases, the enrollment status of a respondent will not be changed upon receipt of a report or during an investigation. If the University determines there is a credible safety concern, interim actions may be taken by the University after receiving a report of prohibited conduct but prior to a hearing outcome. These measures are taken against a respondent based upon the totality of the circumstances known at the time, following an individualized safety and risk analysis where the University has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal of the respondent, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. They may be kept in place until a final investigation decision is released. These measures are designed to protect complainant(s), witness(es), and/or the University community from additional or ongoing prohibited conduct. Failure to comply with protective interim measures may result in a separate policy violation. Other measures include, but are not limited to, the following:

- Change in campus dining locations
- Interim suspension from an on-campus employment position
- Limiting access to specific University facilities, the campus and/or University events
- Limiting access to specific University equipment
- Suspending a student's participation in student organizations, student employment, student leadership positions, and/or intercollegiate/intramural athletics
- Allowing a student to withdrawal from a course
- Schedule modifications to separate a respondent from a complainant or other involved party
- Emergency removal (as set forth in this policy for measures of prohibited Sexual Harassment or the Student Conduct Code for other forms of prohibited conduct)
- Emergency removal from on-campus housing or emergency changing of housing assignment

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as possible, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this

meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their advisor may be permitted to participate in the meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to prohibited sexual harassment under this policy. There is no appeal process for emergency removal decisions.

The Respondent may be accompanied by and advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

Privileged and confidential resources

The University has identified individuals and departments on campus who have a professional requirement to maintain confidentiality* of a conversation with a complainant, respondent, or witness who wants someone to talk to, but does not want to report the incident to the University. If a complainant, respondent, or witness discloses conduct prohibited by this policy to a below mentioned individual when that individual is not acting in the role that provides them privilege (such as when a counselor is serving as a professor rather than in their counseling role), the individual is required to make a report to the Title IX Coordinator. The following are individuals and departments on campus who are privileged and confidential resources when working in the following roles:

Advocate*

- Dani Smith, Ed.D., Chapman University Sexual Assault/Rape Crisis Counselor
 - (714) 744-7080 | dasmith@chapman.edu

Privileged Support People*

- Reverend Gail Stearns, Ph.D., Dean of Chapel | (714) 628-7289
- Reverend Nancy Brink, Director of Church Relations | (714) 997-6760
- Rabbi Cori Yutkin | (714) 628-7260
- Father Rafael Luévano | (714) 532-6098
- Shaykh Jibreel Speight, Director of Muslim Life | (714) 628-2646
- Reverend Cisa Payuyo, Associate Director of Church Relations | (714) 997-6760

Support Services*

- Student Psychological Counseling Services | (714) 997-6778
- Frances Smith Center for Individual & Family Therapy | (714) 997-6746

**While the individuals listed above have a professionally required duty to refrain from disclosing information reported to them, there are certain, specific situations in which they are not able to keep the disclosure private. Those situations are: (1) if someone may be a danger to themselves or others, (2) information about any minor or elder currently being subjected to abuse or neglect – including intentional access to unlawful sexual images, or (3) in some cases if the information is subpoenaed for court proceedings.*

Information on Reporting

Prohibited sexual harassment that is sexual assault, dating violence, domestic violence or stalking, may be reported to local law enforcement (such as Orange Police or Irvine Police), the Dean of Students Office, Human Resources, or Public Safety. Supportive measures and resources are available to a complainant regardless of how they choose to report.

Any person may report conduct prohibited by this policy regardless of whether the person making the report is the person alleged to be the Complainant.

Reporting to the Title IX Coordinator or Investigators

The University encourages individuals to report prohibited conduct to a Title IX Coordinator. They are available to talk if you have a concern you want to share, have questions about this policy or the procedures in this policy or want to report an incident. When students

These individuals work with matters involving students:

DeAnn Yocum Gaffney, Ed.D., Associate Vice President for Student Affairs and Senior Associate Dean of Students
Lead Title IX Coordinator
Argyros Forum 101
gaffney@chapman.edu | (714) 997-6721

Lauren Lockwood, Program Coordinator for Student Affairs
Title IX Investigator
Argyros Forum 302
llockwood@chapman.edu | (714) 532-5056

Ezra Omar, Program Coordinator for Student Affairs
Title IX Investigator
Argyros Forum 302
eomar@chapman.edu | (714) 532-6039

These individuals work with matters involving faculty and staff:

Albert Roberson, Director of Equal Opportunity
Deputy Title IX Coordinator and ADA 504 Officer
DeMille Hall Room 140
aroberson@chapman.edu | (714) 997-6847

Dawn White, Investigator
DeMille Hall Room 140
dawhite@chapman.edu | (714) 997-6827

Timeframe for Reporting

There is no time limit for making a report. In fact, the University recognizes the sensitive nature of these incidents, and acknowledges that many reports of Sexual Misconduct are delayed. If the report is delayed to the point where one of the parties has graduated by the date of institutional notice, the University will still seek to meet its Title IX obligation by taking steps to end the harassment, prevent its recurrence, and remedy its effects, when appropriate.

The University does encourage the prompt reporting of prohibited conduct as prompt reporting allows for the collection and preservation of evidence, digital media and witness statements. The University's ability to investigate and respond may be limited by delay.

Amnesty for students who report or participate

To encourage and support the reporting of incidents and participation in investigations under this policy, students who participate in investigations under this policy will not be held accountable for violations of the Student Conduct Code that may have occurred at the time of or as a result of the incident in question (for example, being under the influence of alcohol or other drugs), unless the University determines that the violation was egregious. Egregious violations include, but are not limited to, actions that place the health or safety of another other person at risk or that involve academic dishonesty.

Not participating in an investigation as a complainant or respondent

While the University does not compel complainants or respondents to participate in investigations or hearings, complainants and respondents should be aware that participating in the fact-finding process is almost always a crucial component of the University's ability to fully gather and analyze information.

Should the complainant choose not to participate in the investigation, the investigator(s) shall notify the Title IX Coordinator so that the Title IX Coordinator may determine if the Complainant's lack of participation requires that the decision-making process be discontinued. Should a respondent choose not to participate in the investigation the

University will proceed with the process, and the findings will be made based upon the available information.

Not participating in a hearing as a complainant or respondent

If, after having the opportunity to review the finalized investigation report, the Complainant and/or Respondent choose not to participate in a hearing or requests an alternate resolution outside of hearing, the Title IX Coordinator shall determine whether a hearing shall be convened.

Should the Respondent or Complainant decide not to participate in the hearing, the Board is unable to rely upon any statements provided by that party during the investigative phase when making a determination of responsibility.

Information Provided upon Reporting

When a student or employee reports an allegation of sexual misconduct, the University shall provide a written information packet that contains procedures to follow if any of the above prohibited conduct has occurred. The packet shall include information on The importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order and the identification and location of witnesses; how and to whom the alleged offense shall be reported, options on reporting to the appropriate law enforcement agency, assistance available to report to the appropriate law enforcement agency, and the option to not report to law enforcement. It shall also contain information on the University's responsibilities regarding orders of protection, no contact orders, restraining orders, and similar orders of protection. Also included will be information about appropriate resources and services both at the University and in the local community, information about reasonably available supportive measures, the participation of advisors during the process, and procedures for disciplinary action.

Preserving Information

Immediately following an incident that may constitute conduct prohibited by this policy, complainants, respondents, and witnesses should consider whether there is information to gather that might be helpful to the decision-maker(s) and should preserve relevant items. For example, receipts, text messages, pictures, videos, emails, Instagram posts or messages, Snapchats, or other social media posts/messages may be helpful during an investigation or hearing. It may be helpful not to delete this information and to preserve it for later. If a complainant, respondent, or witness has already deleted text messages or other materials, they may wish to contact their phone carrier to find out if they can be recovered. Also, complainants, respondents, and witnesses are encouraged to write down a list of possible witnesses to submit to investigator(s).

Any individual considering reporting an allegation of dating violence, domestic violence, stalking, or sexual assault to law enforcement is encouraged to take steps to preserve evidence for use in the legal process. Please see Part C below for information about preserving physical evidence. Additionally, preserving evidence may be helpful in

obtaining a protection order from the court and may also be helpful during the investigation and hearing process.

Reporting to Hospitals and Medical Professionals

In Orange County, sexual assault forensic exams (commonly referred to as rape kits) are only conducted at Anaheim Regional Medical Center located at 1111 W. La Palma Ave, Anaheim, CA 92801. Other Orange County hospitals (including St. Joseph's Hospital, Hoag Hospital, Chapman Global Medical Center, and Orange County Global Medical Center) or urgent care facilities do not conduct forensic exams. The sooner the exam is performed, the more information can be gathered. Prior to the exam, individuals are encouraged to not bathe, shower, douche, or brush their teeth. Additionally, individuals are encouraged to maintain any physical objects such as clothing worn during an alleged incident or other relevant materials. Each garment should be placed in a separate paper (not plastic) bag.

Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if they provide medical services for a *physical condition* to a person who they know or reasonably suspect is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury where the injury is the result of assaultive or abusive conduct (including Rape, Sexual Assault, and Dating and Domestic Violence). This exception does *not* apply to sexual assault and domestic violence counselors and advocates.

Reporting to Law Enforcement or Public Safety

The University supports any complainant who wishes to make a law enforcement report and will inform that individual of this reporting option. Complainants are encouraged to contact local law enforcement in the city where the incident occurred, but it is their choice whether to report to law enforcement. If an individual reports an alleged incident to law enforcement, the University will cooperate with any investigation to the extent possible under federal and state law.

An individual who wishes to report prohibited conduct to Public Safety may contact Public Safety directly at 714-997-6763. When prohibited contact is reported to Public Safety, Public Safety immediately notifies:

- *The Orange, Anaheim, or Irvine Police Department, as appropriate, or the local law enforcement agency if outside of these cities* – The complainant can request that their name not be provided to the law enforcement and Public Safety will honor that request.
- *The Title IX Coordinator* – The Title IX Coordinator or designee will provide outreach to the impacted student or employee to provide resources and reporting options.

Should a student or employee obtain a restraining order against another individual, the student or employee is encouraged to share that information with the Title IX Coordinator and/or Public Safety so that the University can be prepared to assist in the enforcement of the restraining order.

An individual who wishes to make a report to law enforcement in addition to, or instead of, making a report to the University may contact law enforcement directly by calling:

- 911 (for emergencies)
- Orange Police Department: 714-744-7444
- Irvine Police Department: 949-724-7000
- Anaheim Police Department: 714-765-1900

An individual over the age of 18 has a right to report, or to not report, prohibited conduct to law enforcement. Reporting to law enforcement may start a criminal investigation and adjudication within the criminal justice system. A criminal investigation and process is separate from a University administrative investigation and process.

Timely Warnings

When an incident is reported to the University involves an alleged crime that constitutes a possible ongoing or continuing threat to the campus community, the University will evaluate each incident on a case-by-case basis to determine if a timely warning notice will be distributed to the community in a manner consistent with the requirements of the Clery Act. The University shall not publish the name or other identifiable information about the victim of a reported crime in the daily crime log or other statistics that are disclosed as a requirement of the Clery Act. If a timely warning is issued to the campus community due to a report of dating violence, domestic violence, sexual assault, sexual exploitation or stalking, the University will not release the name or identifying information about the complainant.

Reporting to University Faculty or Staff

Students may report to faculty or staff member of their choice, but students should be aware that all University employees (faculty, staff, administrators, and student employees) are required to report conduct prohibited by this policy to a Title IX Coordinator. The only exceptions to this requirement are those individuals who are designated as privileged and confidential resources as noted above. For more information about reporting obligations, contact Human Resources. To access supportive measures, students should contact the Title IX Coordinator

Reporting to Governmental Authorities

University employees, including student employees, who feel they may have been subjected to unlawful harassment or discrimination may also file a complaint with the California Department of Fair Employment and Housing (DFEH), the United States Equal Employment Opportunity Commission (EEOC). Students may file a complaint with the U.S. Department of Education, Office for Civil Rights (OCR).

Department of Fair Employment and Housing (DFEH)
contact.center@dfeh.ca.gov
www.dfeh.ca.gov

United States Equal Employment Opportunity Commission
1-800-669-4000 (TTY 1-800-669-6820)
www.eeoc.gov

Office for Civil Rights
U.S. Department of Education
Office for Civil Rights
50 United Nations Plaza
Mail Box 1200, Room 1545
San Francisco, CA 94102

Phone: (415) 486-5555
Fax: (415) 486-5570
TDY: (800) 877-8339
Email: ocr.sanfrancisco@ed.gov
Web: <http://www.ed.gov/ocr>

General Principles of Investigation and Adjudication

General Principles

1. **Presumption of Not Responsible**— The University presumes that respondents are not responsible for the alleged conduct until a determination of responsibility is made at the conclusion of the grievance process.
2. **Standard of evidence**— The standard of evidence to find a violation of University policy is a preponderance of the evidence. Preponderance of the evidence means that a decision of responsibility for a policy violation will be made on whether it is more likely than not that the alleged conduct occurred and that the conduct by the Respondent violated the policy based on the totality of information.
3. **Information collected during investigation** – The University will collect and consider information that is relevant (both inculpatory and exculpatory) and material to the alleged misconduct in question. Information found by hearing officers to be not relevant, credible or reliable may be excluded or not considered in the hearing process.
 - a. *Prior sexual history* – Generally, the sexual history of a complainant, respondent, or witness will not be considered unless directly relevant to an issue. For example, while the existence of a dating relationship or past

- sexual relations between parties can never by itself be assumed to be an indicator of consent, prior sexual history between the parties may be relevant to assess context for how the parties communicated consent.
- b. *Privileged information* – Information protected under a legally recognized privilege will not be collected, unless the person holding such privilege has waived the privilege.
4. **Conflicts of interest** – Chapman University is committed to the rendering of fair, objective, impartial decisions in its investigative, hearing and appeals processes as well as alternative resolution processes.
- a. For cases involving student respondents, the Title IX Coordinator and Director of Student Conduct work in tandem to identify and avoid potential bias and/or conflict of interest in the assignment of investigator(s), hearing officers, and appeal officer(s). At the outset of an investigation, the Title IX Coordinator will select investigator(s) based on the parties involved, and the need to avoid any potential conflict of interest. The Complainant and the Respondent may object, within two calendar days of being contacted by the investigator(s), to their selection on the basis of bias or conflict of interest. If a party objects, the Title IX Coordinator will evaluate whether the objection is substantiated. The Title IX Coordinator will remove and replace any investigator(s) the Title IX Coordinator finds to have a conflict of interest or bias for or against any party involved. The Complainant and the Respondent have similar opportunities regarding hearing and appeal officers.
 - b. Additionally, the Title IX Coordinator and Director of Student Conduct coordinate work to avoid conflict of interest based on supervisory structures. They do this by coordinating the assignment of investigator(s), hearing administrators, and appeals officers. Individuals are assigned to these roles with attempts made to avoid requiring them to base decisions on the work of their immediate supervisors.

Procedures Afforded to Participating Parties

During the process outlined in this policy, both the complainant and the respondent are afforded specific procedures.

Regarding the ability to confront other parties, complainants and respondents are able to submit questions for those parties to the investigators and/or during the hearing. For information about questioning during the hearing, see section XII. The investigator(s) and the hearing officer(s) have the responsibility to exclude or modify questions that are not necessary to render a decision, including but not limited to questions that are unfairly prejudicial, confusing, compound, argumentative, misleading, unnecessarily repetitive, not probative of the disputed facts or to the determination of the case, or non-relevant sexual history. When excluding a question, the reason for doing so shall be provided.

Role of An Advisor

An advisor is an individual who may accompany the Respondent or the Complainant during the investigation process, such as any meetings with the Title IX Coordinator, investigator(s), hearing officers or appeals officer(s), including interviews, hearings, and any meetings related to the appeals process. A student may only have one advisor with them during a meeting or other proceeding; however, that person does not need to be the same individual throughout an entire process. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing officer(s).

With the exception of posing questions to the other party and witnesses during a hearing, an Advisor may not speak on behalf of the individual they are supporting in the investigation, response hearing or other part of the process, including answering or asking questions for the advised party . An Advisor's participation must not interfere with the process. The Title IX Coordinator, investigator(s), hearing officers, and appeals officer(s) have the authority to determine what constitutes appropriate behavior of an Advisor and to take reasonable steps to ensure compliance with this policy, which may include removing an Advisor from a meeting or process.

Should the Respondent or the Complainant not select an advisor or have one at the hearing phase, the University shall appoint an Advisor to ask questions of the other party and witnesses during a hearing. A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, the University will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Hearing officer(s) during the hearing.

The process will not be unreasonably delayed to accommodate the schedule of an Advisor.

The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The University also provides a consent form that authorizes the University to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the University is able to share records with an Advisor.

Advisors are expected to maintain the privacy of the records shared with them, to the same extent that the parties are expected to maintain the privacy of information shared during the process.

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least ten (10) business days before the hearing. Parties should not wait to secure an Advisor because the hearing date will only be delayed for good cause.

Other Procedural Matters

1. **Multiple complainants and/or respondents** – When incidents involve more than one complainant and/or respondent, the Title IX Coordinator will determine whether the investigations and/or hearings should be conducted separately or in one, consolidated process.
2. **Pending criminal investigations and/or proceedings** – If an individual files a criminal complaint with law enforcement, the University is still obligated to investigate any allegation of conduct prohibited by this Policy in a timely, equitable manner. At the request of a law enforcement agency, the University may temporarily delay the fact-finding portion of an investigation while the law enforcement agency is gathering evidence.
3. **Timing** – The University will complete investigations and hearings in a prompt, fair, and impartial manner, generally within 90 calendar days. University holidays and breaks will likely impact the time that it may take to conclude an investigation or conduct a hearing. During the investigation, the investigator(s) will provide, at a minimum, monthly updates to the parties about the general progress of the investigation. Cases that are particularly complex or involve unusual circumstances may require more than 90 calendar days for the investigation process. For good cause, the process may be temporarily delayed if written notice is provided to the parties. Good cause may include, but is not limited to, the absence of one of the parties, a party's advisor or a witness, a concurrent law enforcement investigation or the need for language assistance or accommodations for disabilities. If the Title IX Coordinator, investigator(s), and/or hearing officer(s) determine that an extension of the 90-day investigation timeline is warranted or necessary, they will notify the parties in writing, including the reason for the delay and the anticipated date of completion. The timeline for any appeals process is 30 business days. If the Title IX Coordinator and/or appeals officer determine that an extension of the 30-day appeals timeline is warranted or necessary, they will notify the parties in writing, including the reason for the delay and the anticipated date of completion.

4. **Disability accommodations** – The University is committed to the full access and inclusion of students, faculty and staff with disabilities in its processes and services under this policy, including investigations and hearings. Disability Services and Human Resources assist with the coordination of reasonable and appropriate accommodations for individuals with documented disabilities. If a party or witness has questions or needs assistance with this as it relates to this policy, they are asked to inform the Title IX Coordinator as soon as possible in order to ensure early facilitation of accommodations, if any.
5. **Procedure** – Formal rules of process, procedure and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in investigation and adjudication. All procedural questions are subject to the final decision of the Title IX Coordinator and/or the presiding officer.

Initial Assessment

Receipt and outreach

After receiving a report of an allegation of behavior that may be prohibited by this policy, the *Title IX Coordinator* will contact the Complainant to explain their opportunities and resources under this policy, reporting options on and off campus, interim and supportive measures as applicable, and appropriate referrals, as well as to invite the Complainant to an in-person or virtual meeting. This is called outreach and for students, is most commonly communicated through the student's Chapman email account, unless the student has indicated that their email address is not safe or appropriate for use.

The *Title IX Coordinator* may refer the report to the Director of Student Conduct if it is determined that the behavior does not violate this policy.

The University is also committed to fulfilling its duties under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act and may issue a timely warning to the campus community under the terms delineated in this law. The Chief of Public Safety or designee will determine when to issue a timely warning. See also the University's [Annual Security Report](#).

Intake

Any student who reports experiencing conduct that may violate this policy may make an appointment with the *Title IX Coordinator* by telephone call, email, or in person. The first meeting is called intake. An intake meeting may also be made by any individual who reports experiencing conduct that violates this policy by a Chapman student.

At intake, the *Title IX Coordinator* and/or investigator(s) will gather information about the incident and assess the need for interim action. Supportive and/or interim measures may be taken prior to and/or without an investigation. A Formal Complaint is required to begin the investigation process for reports of Prohibited Sexual Harassment.

At intake, the Complainant may ask questions about the policy and the process. The Complainant may bring an advisor to intake. Please note that translation services are offered, if requested and reasonably available.

Request by Complainant to not proceed

The Complainant may request their name not be shared with the Respondent, that no investigation be pursued, and/or no student conduct action be taken. In these instances, the Title IX Coordinator and/or designee(s) will discuss the Complainant's concerns and seek to address and remedy concerns that the Complainant may have, such as concerns about retaliation or lack of clarity about procedural options or potential outcomes.

The Title IX Coordinator will assess possible, appropriate action when the Complainant requests anonymity or when the Respondent is unknown, such as what actions may address the effects of the reported behavior. Complainant requests for anonymity will limit the University's ability to fully investigate, and as such, the University's ability to respond to the complaint may be limited. Where possible, the University will, however, take other action to address the reported concern.

The Title IX Coordinator will determine the appropriate manner of resolution under this policy. The University will seek resolution consistent with the Complainant's request to the degree possible but may need to take action to protect the health and safety of the complainant and the University community.

In those instances when the Title IX Coordinator determines that the University must proceed with an investigation despite the request of the Complainant and a Formal Complaint is not required, the Title IX Coordinator will notify the Complainant that the University intends to initiate an investigation. The Complainant is not required to participate in this investigation or in any subsequent actions taken by the University.

In all cases, the final decision on whether, how, and to what extent the University will conduct an investigation or proceed to hearing, and whether other measures will be taken in connection with a report of prohibited conduct, rests solely with the Title IX Coordinator.

Filing a Formal Complaint

During or following the intake, for cases of Prohibited Sexual Harassment, the Title IX Coordinator, or designee, will work with the Complainant to determine if they wish to make a Formal Complaint and request an investigation. Upon the filing of the Formal Complaint, the Title IX Coordinator will then work with the Complainant to determine if the Complainant desires a supportive response, an alternative resolution, or a formal investigation and grievance process.

Should the complainant desire only supportive measures, no formal investigation or grievance process will be initiated.

Ways to Resolve a Formal Complaint

There are three ways a formal complaint can be resolved:

1. Investigation and hearing
2. Respondent accepts responsibility for all alleged violations
3. Alternative resolution options

Alternative Resolution

At the request of an involved party, and with the agreement of the other parties, some conduct reported under this policy may be addressed by alternative resolution. (Quid pro quo sexual harassment by an employee may not be addressed by alternative resolution.) The goals of alternative resolution are to address reported behavior, prevent recurrence, and remedy effects without completing a formal investigation and hearing process. It is flexible by nature and tailored to the specific circumstances of a particular case. Alternative resolution will be considered only when consistent with institutional values, legal obligations and the *voluntary*, mutual agreement of all involved parties, including the University.

Alternative resolutions may include targeted or broad-based educational programming/training, adjustments made to reduce proximity between the parties, and/or direct or indirect action by the *Title IX Coordinator* or the University designed to meet the goals of the alternative resolution as stated above. More specifically, alternative resolutions may include, but is not limited to:

- Permanent no-contact order between the parties
- Changes to employment arrangements, living arrangements, class schedule, dining facilities, or advisor/supervisor arrangements, as feasible
- Written apology and/or explanation of the circumstances surrounding the agreement
- Educational training for an individual, group or unit
 - Online educational modules (for example, alcohol or drug education)
 - Meeting(s) with University staff members
- Community service
- Restorative justice
- Agreed upon restriction from participation in specific student groups
- Agreed upon restriction from participation in specific events
- Mediation/Facilitated discussion
 - Mediation is one form of alternative resolution that may be considered in some cases. However, the University does not deem mediation appropriate for cases involving alleged sexual violence,

including reports of alleged sexual assault, stalking, dating violence or domestic violence.

Depending on the form of alternative resolution used, it may be possible to maintain anonymity of the complainant, except in cases involving Prohibited Sexual Harassment, which require the filing of a Formal Complaint first. Failure to comply with any required component of an alternative resolution may result in a formal investigation and/or a referral to the student conduct process.

Participation in the alternative resolution is voluntary, and a party may request to end the alternative resolution process and begin the formal investigation process at any time prior to resolution. If the Respondent fails to complete the required outcomes, the matter may move to a formal investigation and hearing process under this policy, or the Respondent may be subject to further conduct action under the Student Conduct Code.

Investigation

Notification

If the Title IX Coordinator or designee determines that the University will proceed to a formal investigation, the Title IX Coordinator or designee will assign investigator(s) to the case. The investigators will send a written notice of investigation via email to the Complainant and the Respondent. This notice shall include:

- a. This policy (as a link or attachment).
- b. Notice of the allegations potentially constituting prohibited as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting prohibited conduct under this policy, and the date and location of the alleged incident, if known.
- c. 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 grievance process.
- d. Notification to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- e. Notification to the parties that they may inspect and review evidence, as set forth in this policy.

- f. Any provision in any University policy that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice of charge, the University will provide notice of the additional allegations to the parties whose identities are known.

Information Gathering

The investigator(s) will meet separately with the complainant, respondent and identified witnesses. The investigator(s) will ask the parties for all information related to the allegations, including names of witnesses and documentation related to the incident, which may include, for example, documented communications between parties, receipts, photos, video, or other information relevant to the allegations. The information gathering process 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.

Prior to the completion of the investigative report, the investigator(s) shall send to each party and the party's advisor, if any, the information subject to inspection and review in an electronic formal or a hard copy and the parties shall have at least 10 business days to submit a written response, which the investigator(s) will consider prior to completion of the investigative report.

At the conclusion of the investigation, the investigator(s) shall draft a report which will contain a timeline of the investigation and a list of undisputed and disputed information. The report will not contain any factual determinations or policy analysis. Included in the report shall be interview summaries and any other documents collected as part of the investigation that are directly related to the incident under investigation as set forth in the Notice of Investigation. These documents shall include any that the University does not intend to rely upon in making a decision regarding responsibility. Both inculpatory and exculpatory information shall be included. The information shall be sent simultaneously to both the party and their respective Advisor. After receiving the investigative report and related documents, the parties shall have 10 business days to submit a written response to the investigator(s). After considering any submitted responses, the investigator(s) will submit a final investigation report to the Title IX Coordinator, who may require the investigator(s) to conduct additional information gathering to be included in the investigation report. After the report is approved by the Title IX Coordinator, the complainant and respondent will be provided with the investigation report.

After having the opportunity to review the finalized investigation report, the complainant and respondent will have 10 business days to submit a written response to the final report, if desired.

Only information that is provided to the investigator(s) or otherwise uncovered by the investigator(s) during the course of the investigation may be considered in the determination of whether a violation of policy has occurred. Any and all information for consideration by the hearing officer(s) should be provided to the investigator prior to the hearing and will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably available to the parties at the time of investigation.

Hearing

After the investigation report is complete, the University will notify the Complainant and Respondent of the date and time of the hearing at least 10 calendar days prior to the hearings (or a shorter time by mutual consent).

The University shall conduct a live hearing in front of the decision-maker(s), which may be an individual or a Hearing Board, for the purposes of determining responsibility for allegations of sexual harassment in the Formal Complaint. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator or the investigator(s). A decision-maker may include internal employees or external third parties contracted by the University. If using a Hearing Board, the Title IX Coordinator or designee will choose 3 (three) Hearing Board members from its pool to attend the hearing and make determinations. All potential Hearing Board members will receive annual training as specified by this policy. The parties each may challenge the participation of any member of the Hearing Board for conflict of interest or other good cause. The Title IX Coordinator will make the final decision whether to select an alternate upon a challenge from a party. If using a Hearing Board, the Title IX Coordinator will appoint a member of the Hearing Board to be the Presiding Officer of the Hearing Board. The Presiding Officer shall also be a decision maker.

In the event of documented extenuating circumstances, a Complainant or Respondent may request to reschedule the hearing. This request must be made no later than 9 calendar days prior to the originally scheduled hearing. The decision of whether to reschedule is at the discretion of the hearing officer(s) and Title IX Coordinator, with consideration to the prompt and equitable completion of the process.

Parties, including the Respondent, Complainant, and witnesses may participate by videoconference.

Pre-hearing Meeting(s)

The Presiding Officer will convene a pre-hearing meeting(s) with each individual party and their respective Advisor to go over the scope of the hearing and the procedural requirements. Prior to or during this prehearing conference, the Presiding Officer shall establish a deadline for the parties to submit their list of witnesses, evidence, questions and topics they (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Presiding Officer can rule on their relevance ahead of time to avoid any unnecessary witnesses, improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The Presiding Officer must document and share their rationale for any exclusion or inclusion of a party's evidence, witnesses, arguments, or questions.

At each pre-hearing meeting with an individual party and their Advisor, the Presiding Officer will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Presiding Officer may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Presiding Officer may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.

Prior to the hearing, the parties may submit impact statements either in a sealed envelope directly to the Presiding Officer or via email to the Title IX Coordinator. An impact statement will only be reviewed by the Board during the sanctioning phase (if applicable). If the respondent is found not responsible and subsequently there is not a sanctioning phase, any impact statements provided in a sealed envelope will be returned to the appropriate party once the decision is determined to be final.

The pre-hearing meeting(s) will not be recorded.

The Hearing Process

The hearing officer(s) will be well versed in the investigation report and its attachments. The hearing is an opportunity for the hearing officer(s) to hear from the Complainant, Respondent, and witness(es) and to gather information needed to determine whether this policy has been violated.

The hearing officer(s) and the Presiding Officer, in consultation with the Title IX Coordinator, shall determine the hearing format. During the hearing the investigator(s) will present the report, the Complainant and the Respondent will have the opportunity present their account of the events, to ask questions of other parties through their advisors), and to provide a closing statement.

Rules for Questioning

- a. At the hearing, the decision-maker(s) must permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- b. Only relevant cross-examination and other questions may be asked of a party or witness.
- c. Decision-maker(s) also have the right to question a party or witness.
- d. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally, notwithstanding the University's ability to otherwise restrict the extent to which advisors may participate in the proceedings.
- e. Before the Complainant, Respondent, or witness answers a cross-examination or other question, the Presiding Officer must first determine whether the question is relevant. The Presiding Officer must explain to the party proposing the questions any decision to exclude a question as not relevant.
- f. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Overview of the Hearing

At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc. The facilitator shall administer the hearing in accordance with the following:

- a. The live hearing will be closed. The only individuals permitted to participate in the hearing are as follows: the Complainant and Respondent, the decision-maker(s), the advisor for each party, any

witnesses (only while being questioned), and any individual providing authorized accommodations or assistive services.

- b. If a party does not have an advisor present at the live hearing, the University shall provide without fee or charge to that party, an advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. The University is obligated to ensure each party has an advisor during the live hearing, either of the party's or the University's choice regardless of whether the party is present at the hearing. To ensure timely proceedings, a party shall alert the Title IX Coordinator as soon as practicable if the party will need an advisor. If a party's selected advisor is unavailable for a hearing date, the live hearing date may be postponed for good cause.
- c. Live hearings may be conducted with all parties physically present in the same geographic location or, at University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- d. At the request of either party, the University shall provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
- e. The University shall create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. Any other recording is prohibited and violations may result in discipline.

Once the parties provide an opening statement (if desired) the Complainant and Respondent may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Presiding Officer. The parties/witnesses will submit to questioning by the Hearing officer(s) and then by the parties through their Advisors ("cross examination").

All questions are subject to a relevance determination by the Presiding officer. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Presiding Officer upon request or agreed to by the parties and

the Presiding Officer), the proceeding will pause to allow the Presiding Officer to consider it, and the Presiding Officer will determine whether the question will be permitted, disallowed, or rephrased.

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

The Presiding Officer will limit or disallow questions on the basis that they are irrelevant, unfairly prejudicial, confusing, compound, argumentative, misleading, unnecessarily repetitive, not probative of the disputed facts or to the determination of the case or speak only to a party's non-relevant sexual history. The Presiding Officer has final say on all questions and determinations of relevance. The Presiding Officer may consult with legal counsel on any questions of admissibility. The Presiding Officer may ask an Advisor to frame why a question is or is not relevant from their perspective but will not entertain argument from an Advisor on relevance once the Presiding Officer has ruled on a question or argument.

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Hearing officer(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and refuses to answer any question that the Presiding Officer determines to be relevant, none of their prior statements can be relied upon in the determination of responsibility.

Hearings will ordinarily be audio recorded, with the exception of any deliberation between the hearing officer(s), although written transcription or video recording may serve as a substitute. This record will be the property of the University. Respondents, Complainants, or Advisors at the hearing are free to take their own written notes, but they may not record, share, or stream any photography, video or audio of the hearing. Respondents or Complainants may request the opportunity to review the official record under the supervision of the Title IX Coordinator or designee.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of prohibited conduct other than Prohibited Sexual Harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, the ability to assess credibility is provided where significant disciplinary sanctions are at issue. The decision-maker(s) may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

The hearing officer(s) may remove any party (including complainant, respondent, witness, advisor) from a hearing for reasons including, but not limited to, disruption, waste of time, sharing irrelevant, immaterial, or unduly repetitive information, or failing to adhere to requests of the hearing administrators. The hearing officer(s) may have the individual leave the hearing and proceed with the hearing in that person's absence.

Findings and Appeals

Hearing Outcome

After the hearing has concluded, the hearing officer(s) will deliberate and prepare the hearing outcome. The hearing officer(s) will prepare the report promptly, generally making it available to the parties within 14 business days of the completion of the hearings. The Presiding Officer will notify the parties if an extension of this timeline is necessary. The hearing outcome will include an analysis of all relevant information identified throughout the process, an analysis of policy, and conclusion of whether there is a preponderance of evidence that the respondent violated University policy.

The possible outcomes for each alleged violation are as follows:

- Not responsible
- Responsible

If the hearing officer(s) determines that policy was violated, the Board may then consider the previously submitted party impact statements in determining appropriate sanctions. The Board will also consider any pertinent conduct history when determining sanctions. The Presiding Officer will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The hearing outcome shall include the determination, rationale, the evidence used in support of the determination, the evidence disregarded, credibility assessments and any sanctions. The hearing officer(s) will submit the hearing outcome to the Title IX Coordinator for final review prior to providing it to the parties. The Title IX Coordinator may direct the hearing officer(s) to further consider or investigate additional aspects of a particular case prior to finalizing the hearing outcome.

As simultaneously as possible, the Presiding Officer will provide each party with the hearing outcome via the individual's University email address.

The parties will each receive an appeal deadline by which, if they disagree with the findings of responsibility and/or sanctions, they may request an appeal based on one or more relevant criteria, as outlined below. If neither party requests an appeal by the deadline, parties will be notified that the findings/sanctions outlined in the hearing outcome will become the final determination on the matter. Should an appeal be filed by one party, the other party shall be notified of the submission.

Remedies and Sanctioning

Remedies must be designed to restore or preserve the Complainant's equal access to the University's education program or activity.

The sanctions generally applicable to a student who is found responsible for violating this policy are found within the sanctions section of the Student Conduct Code.

Engaging in conduct that is prohibited by this policy may result in the imposition of one or more sanctions ranging from warnings and educational sanctions up to and including suspension or expulsion, depending on the severity of the incident in question and the student's prior conduct history. The following are the typical sanction ranges for the various forms of conduct prohibited by this policy, prior to consideration of individual conduct history:

Violation	Possible Sanctions
Dating violence	A student found in violation of the dating violence provision will typically be suspended for a minimum of one year and may be suspended for multiple years or expelled*. A student may also receive educational sanctions.
Domestic violence	A student found in violation of the domestic violence provision will typically be suspended for a minimum of one year and may be suspended for multiple years or expelled*. A student may also receive educational sanctions or actions.
Sexual assault	A student found in violation of the sexual assault – non-consensual sexual penetration provision will typically be sanctioned to a multi-year suspension or be expelled* from the University. A student found in violation of the sexual assault – fondling provision will typically be placed on deferred suspension but may also be suspended or expelled. However, less severe violations of the sexual assault – fondling or other unlawful sexual conduct may result in probation or probation of loss of privileges. A student may also receive educational sanctions or actions.

Sexual exploitation	A student found in violation of the sexual exploitation provision will typically be placed on a minimum of a semester suspension to a multi-year suspension or expelled* from the University. A student may also receive educational sanctions to complete as a requirement for returning from a suspension.
Sexual harassment – unwelcome conduct	A student found in violation of the sexual harassment provision will typically be placed on a minimum of a deferred suspension to a multi-year suspension. A student may also receive educational sanctions to complete as a requirement for continued enrollment or as a requirement for returning from a suspension.
Stalking	A student found in violation of the stalking provision will typically be suspended from the University for a minimum of one year and may be suspended for multiple years or expelled*. However, less severe violations of this policy may result in probation with loss of privileges or deferred suspension. A student may also receive educational sanctions.

*Expulsion shall be noted on a student's transcript.

Educational sanctions may include completion of online modules, required meeting(s) with appropriate University or community resources, research or reflection papers, restitution, or other sanctions the Board finds appropriate.

Additional actions may include restriction from campus facilities, restrictions on participation in University-sponsored activities or events (including athletics participation), permanent no contact orders.

Additional sanctions may include permanent no contact orders, academic or housing reassignment, or removal from campus housing or other sanctions uniquely tailored to remedy any prohibited conduct and prevent its recurrence.

Appeals

Within 5 business days of receiving the hearing outcome, the parties will have an opportunity to submit a written appeal outlining why they believe one or more of the criteria for appeal exists in their case. Appeals are typically limited to 7 pages, double-spaced, 12-pt. font. In the instance of particularly complex or simultaneous cases, an extension on this page limit may be granted by the Dean of Students or designee.

The other party will be notified within 2 business days if an appeal is submitted. The notified party will have an opportunity, if requested, to review the original written appeal. They may submit a written response (typically limited to 7 pages, double-spaced, 12-pt. font) within 5 business days of being notified that an appeal was submitted.

Appeals criteria

The appeals officer(s) will consider appeals requests narrowly, specific to the relevant criteria for appeal. Appeals may only be brought on one or more of the three possible criteria:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- c. The Title IX Coordinator, investigator(s), or hearing officer(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Appeals outcomes

Appeals will be concluded in one of the following manners:

- a. If the Dean of Students or designee determines that none of the appeals criteria have been met, they will deny the appeal request, thereby upholding the hearing findings and sanctions (if applicable).
- b. If the Dean of Students or designee determines that new information not previously available needs to be considered, the case should normally be remanded to the original investigator(s) and/or, hearing officer(s) for reconsideration. Parties will be allowed to respond to new information and new findings will be issued.
- c. If the Dean of Students or designee determines that there was a procedural error that had a significant impact the outcome, the matter will be remanded to the Title IX Coordinator to remedy the error or the Dean of Students or designee may take other corrective action to sufficiently remedy the error.

The Dean of Students or designee will provide the complainant and respondent written notification of the final determination as simultaneously as possible.

Records Retention

The University shall maintain for a period of at least seven years records of:

- a. Each sexual harassment investigation, including any determination regarding responsibility and any audiovisual recording or transcript required under federal regulations
- b. Any disciplinary sanctions imposed on the Respondent
- c. Any remedies provided to the Complainant designed to restore or preserve equal access to the University's program or activity
- d. Any appeal and result therefrom

- e. Any alternative resolution and the result therefrom
- f. All materials used to train Title IX Coordinators, Investigators, Hearing officer(s), and any person who facilitates an Alternative Resolution process. The University will make these training materials publicly available on the University's website. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - i. The basis for all conclusions that the response was not deliberately indifferent;
 - ii. Any measures designed to restore or preserve equal access to the University's education program or activity; and
 - iii. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

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