

# TITLE IX POLICY & PROCEDURES

## I. STATEMENT OF NON-DISCRIMINATION POLICY

Houston Career Institute (The School) does not discriminate on the basis of sex and prohibits sex discrimination in the education programs or activities that it operates, as required by Title IX of the Education Act and the Regulations of the Department of Education (20 U.S.C. § 1681 *et seq.*) and its regulations (34 C.F.R. § 106, *et. seq.*). The requirement not to discriminate in any education program or activity extends to admission to the School and employment opportunities with the School.

Inquiries about Title IX may be referred to the School's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

The School's Title IX Coordinator can be contacted at:

Keith Cravens, Campus Director  
9700 Bissonnet, St #1400  
Houston, TX 77036  
(713) 568-0247  
[kcravens@houstoncareerinstitute.com](mailto:kcravens@houstoncareerinstitute.com) or  
[TitleIXCoordinator@houstoncareerinstitute.com](mailto:TitleIXCoordinator@houstoncareerinstitute.com)

The Assistant Secretary of the Department of Education can be contacted at:

U.S. Department of Education  
Assistant Secretary for Civil Rights  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
1-800-421-3481  
[OCR@ed.gov](mailto:OCR@ed.gov)

The School's nondiscrimination policy and grievance procedures can be found in the Student Catalog in the Table of Contents under the title "Title IX Policy and Procedures".

To report information related to conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to the School's Title IX Grievance Procedures which can be found in the Student Catalog in the Table of Contents under the title "Title IX Policy and Procedures".

## II. DEFINITIONS

- a. **Sex-Based Harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex that satisfies one or more of the following:
1. *Quid pro quo harassment.* An employee, agent, or other person authorized by the School to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service of the School on a person's participation in unwelcome sexual conduct;
  2. *Hostile environment harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the School's education programs or activities (as defined below); or
  3. *Specific offenses.* As defined below, sexual assault, domestic violence, dating violence, or stalking.
- b. **Sexual Assault** means generally a sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent. Offenses classified as forcible or nonforcible sex offenses under the uniform crime reporting system of the Federal Bureau of Investigation constitute sexual assault under the School's policy.
- c. **Dating Violence** means violence committed by a person—
1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship.
    - ii. The type of relationship.
    - iii. The frequency of interaction between the persons involved in the relationship.
- d. **Domestic Violence** means felony or misdemeanor crimes committed by a person who—
1. Is a current or former spouse or intimate partner of the victim, under the domestic or family violence laws of the jurisdiction of the School or a person similarly situated to a spouse of the victim;

2. Is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
  3. Shares a child in common with the victim; or
  4. Commits acts against a youth or an adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
- e. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
1. Fear for his or her safety or the safety of others; or
  2. Suffer substantial emotional distress.
- f. **Hostile Environment.** Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
1. The degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity;
  2. The type, frequency, and duration of the conduct;
  3. The parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  4. The location of the conduct and the context in which the conduct occurred; and
  5. Other sex-based harassment in the recipient’s education program or activity; or
- g. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment, as defined above.
- h. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, as defined above.
- i. **Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the recipient investigate the allegation of sexual harassment.
- 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 recipient’s education program or activity without unreasonably burdening the other party, including measures

designed to protect the safety of all parties or the recipient’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, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures are available to the Complainant and Respondent regardless of whether the Complainant files a formal complaint.

- k. **Business Days** means Monday through Friday, except for federal or state holidays and any day in which the School is closed due to inclement weather, emergency, or scheduled breaks in the School’s academic calendar.
- l. **Confidential Employee** means (1) an employee of the School whose communications are privileged or confidential under Federal or State law, such status will be recognized only with respect to information received while the employee is functioning within the scope of their duties to which the privilege or confidentiality applies; (2) an employee of the School who has been designated as confidential for the purpose of providing services to persons related to sex discrimination, such status will be recognized only with respect to information received about sex discrimination in connection with providing those services.

### **III. STATEMENT OF PURPOSE**

The School has adopted the grievance procedures set forth below to provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

### **IV. REPORTING AN ALLEGATION**

**Title IX Coordinator** - Any individual – student, employee or third party - may make a report concerning sexual harassment or sex discrimination whether or not they are the victim of that behavior. Complainants and third parties are encouraged to report sexual harassment as soon as possible to allow the School to respond promptly and effectively. **Reports must be directed to the Title IX Coordinator. In cases where the allegation is against the Title IX Coordinator, the report may be made to the Chief Executive Officer. Only the campus Title IX Coordinator or Chief Executive Officer has authority to issue corrective measures for an incident of sexual harassment or sex discrimination.** Students and employees should not

expect any action taken with respect to a complaint or report directed to any other employee or faculty of the School other than a Title IX Coordinator or Chief Executive Officer. The Title IX Coordinator at the School is the Campus Director, and can be contacted at:

Keith Cravens, Campus Director  
9700 Bissonnet, St #1400  
Houston, TX 77036  
(713) 568-0247  
[kcravens@houstoncareerinstitute.com](mailto:kcravens@houstoncareerinstitute.com) or  
[TitleIXCoordinator@houstoncareerinstitute.com](mailto:TitleIXCoordinator@houstoncareerinstitute.com)

The School has designated the Title IX Coordinator to oversee the intake of complaints of sexual harassment at the School. An individual who has experienced sexual misconduct or someone who has a legal right to act on behalf of such a person has the right to choose whether or not to refer a complaint of sex-based harassment to the Title IX Coordinator for investigation. With regard to complaints of sex discrimination other than sex-based harassment, any student, employee, or any third party that was participating attempting to participate in the Schools' education program or activity at the time the alleged sex discrimination took place may refer a complaint to the Title IX Coordinator.

The Title IX Coordinator is trained to assist individuals who report sex-based harassment and other forms of sex discrimination and can provide information about resources and services available to students and employees, both on and off campus, including the availability of supportive measures.

**Confidentiality** - The Title IX Coordinator is not a confidential source of support. While he or she will address your complaint with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. The Title IX Coordinator will treat as confidential all information related to the provision of supportive measures, to the extent that such confidentiality does not interfere with the ability of the School to provide the supportive measures.

**Report vs. Formal Complaint** - Making a **report** is different from filing a **formal complaint**. A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator. A report may be accompanied by a request for (1) supportive or interim measures; (2) no further action; (3) the initiation of the formal complaint process; and/or (4) a request to initiate an informal resolution process. Informal resolution can only occur after a formal complaint is filed. Filing a formal complaint initiates the School's formal Title IX grievance process.

**Criminal Complaint/Civil Actions** - A person who has experienced sexual harassment, as defined in Section II, above, or a person who witnesses sexual harassment, has the right to simultaneously file a complaint with the School and to pursue a criminal complaint with law enforcement in the event that the individual believes in good faith that the alleged conduct of the Respondent constitutes a criminal violation of law. Victims and witnesses of sexual harassment

have the right to be assisted by the School in notifying law enforcement authorities of sexual harassment or they can decline to notify such authorities. The School may, however, have a statutory reporting obligation when it becomes aware of certain factual allegations. Parties may also have options to file civil actions in court or with administrative agencies.

**How to Make a Report** - If a student, employee or third party wishes to report an allegation of sexual harassment, he or she should submit any relevant information to the Title IX Coordinator in person, via email, via regular mail or by phone.

The Title IX Coordinator will take the Complainant's wishes into account when determining whether to file a formal complaint. However, if the Title IX Coordinator determines that pursuing an investigation into the allegations is necessary for the safety of the community or other reasons, he or she may sign the formal complaint to initiate the grievance process notwithstanding the Complainant's decision not to pursue a formal complaint.

#### V. HOW TO FILE A FORMAL COMPLAINT:

To file a formal complaint, the Complainant must submit, in writing, allegations of sexual harassment against a Respondent and must request that the School investigate the allegation of sexual harassment. Only the Complainant or Title IX Coordinator may file a formal complaint. Any person wishing to make a complaint must submit it to the Title IX Coordinator in person, via email, via regular mail or by phone to the attention of:

Keith Cravens, Campus Director  
9700 Bissonnet, St #1400  
Houston, TX 77036  
(713) 568-0247  
[kcravens@houstoncareerinstitute.com](mailto:kcravens@houstoncareerinstitute.com) or  
[TitleIXCoordinator@houstoncareerinstitute.com](mailto:TitleIXCoordinator@houstoncareerinstitute.com)

#### VI. SCHOOL'S RESPONSE TO ACTUAL KNOWLEDGE OF SEXUAL HARRASSMENT

**Supportive Measures** - Upon receiving a report, a formal complaint or notice of allegations of sexual harassment in an educational program or activity, the Title IX Coordinator will promptly respond to the Complainant/Alleged Victim to discuss the availability of supportive measures,

consider his/her wishes with respect to the supportive measures and explain the process for filing a formal complaint.

The School will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the School to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

**Preliminary Inquiry/Actions** -The Title IX Coordinator, in consultation with others as necessary, will conduct an initial assessment of the alleged conduct, the reporting party's desired course of action, and interim measures to protect the safety of the Complainant or the community. The goal is to prevent any hostile educational or workplace environment from developing at the School. If a report made to the Title IX Coordinator involves a serious or immediate threat to the campus community, the School will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the Complainant.

If a Complainant chooses to pursue a formal complaint, the School must follow the grievance process outlined below, unless the Title IX Coordinator determines, after this preliminary inquiry, that the alleged conduct, even if proven, would not rise to the level of conduct prohibited by this policy for one of three reasons:

1. The alleged conduct did not occur in scope of the School's education program or activity, or
2. The alleged conduct does not meet this policy's definition of sexual harassment, or
3. The alleged conduct did not occur to a person located in the United States

**Scope of Education Programs or Activities** - For the purposes of the Title IX Coordinator's determination under Section VI of this policy statement, the scope of the School's education program or activity includes locations, events, or circumstances over which the School has exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and shall also include any building owned or controlled by a student organization that is officially recognized by the School.

**Dismissal of Formal Complaint** - If the Title IX Coordinator determines that the alleged conduct, even if proven, would not rise to the level of conduct prohibited by this policy, the formal complaint will be dismissed, and the Complainant will be provided written notification of that decision, which will include the reasons for the dismissal. A determination that the alleged conduct does not warrant initiating the grievance process does not preclude the School from taking action to address any prohibited conduct/actions under another provision of its Code of Conduct.

If the Complainant or Respondent is an employee of the School or one of its affiliates, the Title IX Coordinator will notify the Director of the Human Resources department who is responsible for overseeing the School's compliance with Title VII of the Civil Rights Act of 1964.

## **VII. REMOVAL OF A RESPONDENT FROM EDUCATION PROGRAM OR ACTIVITY -INTERIM ACTION**

The Title IX Coordinator may remove a Respondent from his or her educational program or activity if the Title IX Coordinator determines that an immediate threat to the physical health or safety of any student or other individual arising from allegations of sexual harassment justifies removal.

If the Title IX Coordinator determines that allegations of sexual harassment justify removal, he or she will provide the Respondent with notice of the removal to the Respondent's School-provided email address and the Respondent must immediately cease participation in campus activities and may not return to the campus at any time pending the resolution of the complaint. Within three (3) Business Days after the Title IX Coordinator sends the notice, Respondent may challenge the removal decision by providing a written explanation of why the sexual harassment allegations do not justify removal. The Title IX Coordinator will notify the Respondent within three (3) Business Days whether the challenge is successful and whether any alternative interim measures are warranted. A Respondent who has been removed from his/her programs or activities as an interim measure may not attend any activity or program of the School while his/ her challenge to removal is pending.

The Title IX Coordinator may also place a non-student employee Respondent on administrative leave during the pendency of a grievance process.

## **VIII. INFORMAL RESOLUTION**

After a formal complaint is filed and as an alternative to completing the School's formal Title IX grievance process, the Complainant and Respondent may agree to resolve a formal complaint through an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. Informal resolution is not available to resolve allegations that any employee of the School sexually harassed a student.

Participation in an informal resolution process is entirely voluntary, and requires written consent from all parties, including the School. The School will not require a Complainant or Respondent to participate in informal resolution. However, once the parties and the School agree to informal resolution, the School will suspend its obligation to pursue the grievance process except to the extent necessary to facilitate the informal resolution process as agreed to by the parties and the School.

At any time prior to the parties reaching an agreement on the resolution of the allegations, any party may withdraw from the informal resolution process and initiate or resume the grievance process.

If the parties and the School agree to an informal resolution process, the Title IX Coordinator will provide the parties with a written notice disclosing (1) the allegations; (2) the requirements and procedures of the informal resolution process; (3) the circumstances under which the parties will be precluded from resuming a formal complaint arising from the same allegations; (4) notice



that at any time prior to the parties' agreeable resolution of the allegations, any party has the right to withdraw from the informal resolution process and initiate or resume the grievance process; and (5) the records that will be maintained or could be shared during and after the informal resolution process.

In the event that the parties reach a mutually agreeable resolution of the complaint through the informal resolution process, the Title IX Coordinator will close and dismiss the complaint.

## **IX. RETALIATION**

The School or any other person is prohibited from intimidating, threatening, coercing, discriminating, or retaliating in any way against any individual for the purpose of interfering with any right or privilege secured by Title IX or the Regulations of the Department of Education (34 C.F.R. § 106, et. seq.), or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any aspect of the grievance process.

Complaints alleging retaliation may be submitted to the Title IX Coordinator in the same manner as a report of sexual harassment. Or, if the allegations of retaliation are against the Title IX Coordinator, the complaint should be directed to Peter Mikhail, the School's Chief Executive Officer, at:

Peter Mikhail, Chief Executive Officer  
5150 S. Decatur Blvd.  
Las Vegas, NV 89118  
(702) 658-7900  
[pmikhail@mikhailed.com](mailto:pmikhail@mikhailed.com)

## **X. CONFIDENTIALITY**

The School understands that those involved in the sexual harassment reporting and grievance process, including the parties, witnesses, and individuals who have made reports or complaints of sex harassment, have privacy rights, including rights governed under the Family Education Rights and Privacy Act. The School will not disclose information relating to the reporting of sexual harassment and the grievance process unless it is pursuant to a lawful purpose, such as:

1. Where information is necessary to give fair notice of the allegations and to conduct the investigation, hearing, and appeal;
2. Where other School officials have a need to know of the information in performing the School's business;

3. Where the School determines the information should be shared with law enforcement;
4. Where sharing information will reduce the risk of an immediate threat to the health and safety of others;
5. Where sharing information is necessary for the School to comply with requests from government agencies and accreditors who review the School's compliance with federal law, state law, and accreditation requirements;
6. As necessary to respond to a lawfully issued subpoena or legal request for information;
7. Where disclosure of the information is otherwise permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99.

## **XI. CONFLICTS OF INTEREST**

No investigator or hearing decisionmaker will make findings or determinations in a case in which they have a conflict of interest or bias that would prevent that individual from being able to discharge their duties with impartiality. A party wishing to raise the issue of a potential conflict of interest or bias must notify the Title IX Coordinator of the bias or conflict of interest within two (2) Business Days of being advised of the identity of the investigator or decisionmaker or within two (2) days of the date the party discovers or reasonably should have discovered the existence of the alleged bias or conflict of interest. The Title IX Coordinator will determine whether a conflict of interest exists. If a party believes that the Title IX Coordinator has a bias or conflict of interest, the party must notify Peter Mikhail, the School's Chief Executive Officer, who will determine whether a conflict of interest or bias exists. Mr. Mikhail can be contacted at:

Peter Mikhail, Chief Executive Officer  
5150 S. Decatur Blvd.  
Las Vegas, NV 89118  
(702) 658-7900  
[pmikhail@mikhailed.com](mailto:pmikhail@mikhailed.com)

## **XII. GRIEVANCE PROCESS**

Once the Title IX Coordinator determines that allegations in a formal complaint could, if proven, constitute sexual harassment, the School will initiate its Title IX grievance process. The Title IX grievance process is designed to fairly investigate allegations of sexual harassment, determine responsibility for any alleged violations, and provide remedies designed to restore or preserve

equal access to the School's education programs and activities. The School's Title IX grievance process will:

1. Treat Complainants and Respondents equitably;
2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness;
3. Presume that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

**Timeline for Resolution** -The School will resolve all cases in a prompt and timely manner, however, the timeline will vary based on the circumstances of the case, including scheduled and unscheduled breaks in the academic calendar, availability of the parties and witnesses, scope of the investigation, need for interim actions, and unforeseen or exigent circumstances. The parties will be periodically updated on the status of their case.

Stated timing requirements in this policy will be strictly enforced. Requests for extension are disfavored and will not be granted absent a showing of good cause that is based on extraordinary circumstances. However, if a party believes circumstances require an extension of deadlines, he or she must notify the Title IX Coordinator before the passing of the deadline, in writing, explaining why the deadline must be extended. The Title IX Coordinator will decide whether the deadline should be extended. If a deadline is extended, it will be extended for all parties.

**Responsibility to Check Email** -Throughout the Title IX grievance process, the School will send important notices and information to the parties' School-provided email accounts. It is each party's responsibility to frequently check his or her School-provided email account. Important deadlines are based on when the School sends certain notices and/or information to a party's email account, and a party's failure to check his or her email is not a valid excuse for a missed deadline.

If a party is unable to access his or her School-provided email account, he or she must immediately notify the Title IX Coordinator to arrange for an alternate method of receiving notices and information. Unless and until the Title IX Coordinator receives such notice, a party will be deemed to have received all emails and attachments on the day they were sent.

**Standard of Proof** -The School uses the preponderance of the evidence standard in investigations of complaints of sexual harassment. This means that the investigation and hearing determine whether it is more likely than not that a violation of the policy occurred.

**Role of Advisors** -All parties may have an advisor of their choice to accompany them through the grievance process. A party's advisor may be, but is not required to be, an attorney. A party may have his or her advisor present at any meeting, interview, or other appearance the party is entitled to attend.

Advisors are expected refrain from interfering in the investigation and resolution of a formal complaint and are required to act ethically, with integrity, and in good faith throughout the

grievance process. If the Title IX Coordinator, an investigator, hearing decisionmaker, or other campus official determines that an advisor is acting in a manner intended to improperly disrupt or interfere with the grievance process, the advisor will receive a warning. Any subsequent attempt to disrupt or interfere with the grievance process will result in the advisor's immediate removal from the proceedings, and he or she will be barred from further participation in the Title IX grievance process. Unless the Title IX Coordinator, investigator, decisionmaker, or other campus official determines that an advisor's misconduct is part of a party's deliberate attempt to disrupt or delay the grievance process, the proceedings will be suspended to allow a party to replace his or her advisor.

Each party must have an advisor present at the hearing. As discussed in the Hearing Procedures, below, only advisors may ask a party or witness questions at a hearing. In advance of the hearing, a party may request that the School provide him or her with an advisor of the School's choosing. Absent a showing of bias or a conflict of interest, a party has no right to object to an advisor provided by the School.

**Consolidation of Formal Complaints** - The School may consolidate formal complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where the grievance process involves more than one Complainant or more than one Respondent, references in this policy to "party," "Complainant," or Respondent" include the plural, as applicable.

**Notice of Formal Complaint** -Once a Title IX Coordinator determines that a formal complaint alleges a potential violation of this policy, the parties will receive notice that a formal complaint has been filed and that the School has initiated its grievance process. The notice will include:

1. Information concerning the School's Title IX grievance procedures and any informal resolution process;
2. The identities of the parties involved in the incident, if known;
3. The conduct allegedly constituting sexual harassment, as defined in this policy, if known;
4. The date and location of the incident, if known;
5. 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;
6. An explanation of the parties' right to present relevant and not otherwise impermissible evidence and to have an advisor present throughout the grievance process;
7. An explanation that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.
8. An explanation of the School's prohibition against knowingly making false statements or knowingly submitting false information during the grievance process
9. A statement that retaliation is prohibited.

**Investigation** -After notifying the parties of the formal complaint and the initiation of the grievance process, the School will appoint one or more trained investigators (which could be the Title IX Coordinator) to review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible. The following types of evidence, and questions seeking the evidence, are impermissible, (i.e., will not be accessed or considered, except by the School to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privileged or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatments to the party or witness, unless the School obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and the Respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Investigators will have received training on the following:

1. The definition of sexual harassment, as defined in this policy;
2. The scope of the School's education programs and activities;
3. How to conduct an investigation pursuant to this policy;
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
5. Issues of relevance to create an investigative report that fairly summarizes the relevant evidence.

During the investigation, the parties will have an equal opportunity to present witnesses, including expert witnesses, and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

When a party's participation in the investigation is invited or expected, the School or the investigator will provide written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings. The written notice will be given at least three (3) Business Days in advance of the party's expected participation. Pursuant to the limits on the role of advisors, discussed above, each party will be entitled to have an advisor of his or her choosing present at any meeting or interview to which the party is invited or expected to attend.

The School or the investigator may modify the list of allegations based on additional information learned during investigation. In that event, the parties will receive notice of a new allegation prior to the inclusion of a new allegation in an amended formal complaint.

Prior to the conclusion of the investigation, the School will provide the parties and their advisors the opportunity to inspect and review any evidence obtained during the investigation that is directly related to the allegations in the formal complaint. The parties will then have ten (10) Business Days to submit a written response to the Title IX Coordinator, which the investigator will consider prior to completing his or her investigative report.

At the conclusion of the investigation, the investigator will prepare an investigative report that fairly summarizes relevant evidence. The report will be simultaneously provided to all parties and their advisors at least ten (10) Business Days prior to the hearing, if a hearing is required. The parties may submit a written response to the investigative report for consideration by the hearing decisionmaker. However, a response to the investigative report must be received by the Title IX Coordinator no later than five (5) Business Days before the hearing. Responses received after that deadline will not be considered by the hearing decisionmaker. The Title IX Coordinator will simultaneously provide all submitted written responses to the parties at least three (3) Business Days before the hearing.

**Dismissal of a Formal Complaint** - If at any time during the investigation, the School determines that any conduct alleged in the formal complaint (1) would not constitute sexual harassment, as defined in this policy, even if proved, (2) did not occur in a program or activity of the School, or (3) did not occur against a person in the United States, the School must dismiss the formal complaint with regard to that conduct. If other conduct is alleged in the formal complaint, the grievance process will continue with regard to those allegations only.

The School may also dismiss the formal complaint, or any allegations in the formal complaint, if at any time during the investigation or hearing (1) the School is unable to identify the Respondent after taking reasonable steps to do so; (2) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations in the formal complaint; (3) the Respondent is no longer enrolled at, or employed by, the School; or (4) specific circumstances prevent the School or the investigator from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the School dismisses a formal complaint, or any allegations in a formal complaint, it will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the Complainant, and if the Respondent had been previously notified of the allegations, to the Respondent.

The notice of dismissal will notify the parties that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of the formal complaint. Dismissal may be appealed on the following bases: (1) procedural irregularity that would change the outcome; (2) new evidence that would change the outcome and that was not reasonably available when the dismissal was made; and (3) the Title IX Coordinator, investigator, or decisionmaker

had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

When a formal complaint is dismissed the School will at minimum: (1) offer supportive measures to the Complainant as appropriate; (2) if the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and (3) take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur with in the School's education program or activity.

### **Questioning the Parties and Witnesses:**

Following the conclusion of the investigation and the parties' opportunity to review the investigative report, the investigator will refer the matter to a decisionmaker, who will have received training on the following:

1. The definition of sexual harassment, as defined in this policy;
2. The scope of the School's education programs and activities;
3. How to conduct live hearings pursuant to this policy;
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
5. Issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant; and
6. Any technology to be used at the live hearing.

The School will be responsible for appointing the decisionmaker who may or may not be an employee of the School. The decisionmaker will be free of any conflicts of interest, pursuant to the conflict of interest requirements of this policy. The identity of the decisionmaker will be provided to the parties at least ten (10) Business Days prior to the hearing. If any party believes that the decisionmaker is subject to bias or a conflict of interest, he or she must submit a written objection to the Title IX Coordinator within the timelines stated in Section XI of the Title IX Policies and Procedures, stating the basis for the objection. If the Title IX Coordinator determines that the decisionmaker is subject to bias or a conflict of interest that justifies removal of the decisionmaker, the Title IX Coordinator will name a new decisionmaker. In that event, the hearing may be rescheduled to allow for a reasonable time to ensure proper training and an opportunity for the parties to object to the new decisionmaker on the grounds of bias or conflict of interest, pursuant to the requirements above.

The decisionmaker will have the ability to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. This questioning may take place in the context of written submissions to the decisionmaker or in the context of a live hearing. The decision to conduct a live hearing will rest solely in the discretion of the decisionmaker. Neither the Complainant nor the Respondent shall have the right to a live hearing under the School's Title IX Grievance Procedures.

When the decisionmaker chooses not to conduct a live hearing the process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions that challenge the credibility, will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions set forth in the Title IX Grievance Procedures;
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

**Live Hearing - *Time and Location:***

The hearing will be conducted at a location within the county where the School is located. The Title IX Coordinator will notify the parties of the time and location of the hearing at least ten (10) Business Days prior to the hearing. Parties and their advisors are expected to adjust their schedules to attend the hearing. Hearings will not be rescheduled absent emergencies or extraordinary circumstances.

Within two (2) Business Days of the hearing, either party may request that the hearing be conducted with parties located in separate rooms with technology enabling the decisionmaker and parties to simultaneously see and hear the party or the witness answering questions.

The School may also, at its discretion, allow any or all parties, witnesses, or other participants appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other.

The hearing will be closed to the public and witnesses will be present only during their testimony. For live hearings that use technology, the decisionmaker shall ensure that appropriate protections are in place to maintain confidentiality.

**Live Hearing - *Hearing Procedure:***

The decisionmaker will preside over the hearing, and he or she will determine the order of witnesses.

**Advisor** - Each party must have his or her own advisor present at the hearing. The role of the advisor is to ask relevant questions of the other party and other witnesses as described below. The hearing will be conducted in a respectful manner and with appropriate decorum. Advisors may counsel the party they represent during the hearing, however, advisors may not make opening or closing statements on behalf their represented party or raise or make objections on the record. Failure to comply with these requirements may be deemed by the hearing officer as interference with the orderly conduct of the hearing and may subject the advisor to removal and replacement. If a party does not have an advisor present at the hearing, the School will provide



an advisor of the School's choosing at no cost to the party. Only the parties' advisors may ask questions of testifying witnesses, and the questioning must be conducted orally, and in real time.

**Cross Examination** - Each party will have the opportunity to have his or her advisor cross-examine the other party and any witnesses by asking relevant questions and follow-up questions, including those challenging credibility.

**Relevancy of Questions/Evidence** -Before a party or witness answers a question, the decisionmaker must first determine whether the question is relevant and not otherwise impermissible and explain any decision to exclude a question as not relevant. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. Advisors may not present arguments in favor or against the exclusion of any proposed question. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Generally, the decisionmaker may not consider hearsay statements to constitute evidence at the hearing. Hearsay statements are statements made by either party, which were not made during the hearing, and which the other party offered in evidence to prove the truth of the matter asserted in the statement. Hearsay statements may only be considered when the decisionmaker decides that a basis exists to include the hearsay statements as evidence under Article VIII of the Federal Rules of Evidence.

All evidence provided to the parties prior the investigator's completion of the investigation will be available at the hearing. Each party may refer to such evidence during the hearing, including for purposes of asking questions to other parties or witnesses.

**Recognized Privileges** - The decisionmaker will recognize all legally recognized privileges, such as the attorney-client and work-product privilege, unless the holder of the privilege has waived the privilege. It is the responsibility of a party's advisor to invoke any privileges at the hearing. Failure to timely invoke a privilege will constitute a waiver.

**Effect on Non-Participation** - If a party or witness does not submit to questions at the hearing or refuses to respond to questions the decisionmaker may choose to place less or no weight upon statements made by the party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions.

**Record of Hearing** - Hearings will be recorded with an audio recording, audiovisual recording, or by transcript. The recording or transcript will be made available to all parties for inspection and review.

### ***Determining Responsibility:***

Following the hearing, the decisionmaker will issue a written determination deciding whether the Respondent is responsible for the allegations of sexual harassment. The decisionmaker will base his or her determination on a review of the relevant and admissible evidence obtained during the investigation or hearing, the investigative report, and hearing testimony. The written determination will be sent to each party's School-provided email account. Important appeal deadlines will be based on when the written determination is sent by the School, so the parties are strongly encouraged to carefully monitor their email correspondence for the determination.

The decisionmaker will apply the preponderance of the evidence standard in reaching his or her determination. The written determination will include:

1. An identification of the allegations potentially constituting sexual harassment as defined in this policy;
2. A description of the procedural steps taken, from receipt of the formal complaint by the School through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the recipient's code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, and disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the School's education program or activity will be provided by the School to the Complainant; and
6. The procedures and permissible bases for the Complainant and Respondent to appeal.

The written determination will be simultaneously provided to the parties' School-provided email accounts. The parties will then have seven (7) Business Days to notify the Title IX Coordinator if they wish to appeal the determination regarding responsibility (see Appeal, below). The determination regarding responsibility becomes final either (1) seven Business Days after issuance of the written determination regarding responsibility, if no appeal is filed, or (2) if an appeal is filed, on the date the School provides a written determination on the results of an appeal.

### **Appeal**

Both the Complainant and the Respondent may appeal the determination regarding responsibility, the dismissal of any allegation(s) of a formal complaint, and/or sanctions. All appeals will be decided by a decision maker appointed by the School, who cannot be the same person who rendered a determination at the hearing or presided over the hearing. Once the decision maker issues his/her written determination on the results of the appeal, all matters are considered final and no further appeals will be considered.

If a party wishes to appeal, he/she must send a notice of his/her intent to appeal, by email, to the Title IX Coordinator within seven (7) Business Days after the School sends the determination to the parties' School-provided email accounts. If a party does not submit notice of appeal within the seven-day deadline, he or she will lose any right to appeal the written determination. The notice of intent to appeal must state the specific ground(s) for the appeal.

An appeal is not intended to be a rehearing of the allegations in the formal complaint. Disagreement with the findings or sanctions is not a valid ground for an appeal. The School will only consider an appeal on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence, that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. The Title IX Coordinator, investigator(s), or decisionmaker 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.
4. Ineffective assistance of an advisor. For the purposes of an appeal, a claim of ineffective assistance of counsel must assert (1) "that representation provided by the party's personal advisor fell below an objective standard of reasonableness," ... and (2) that any such deficiency was "prejudicial to the party."

If a notice of intent to appeal does not reference one or more of these four grounds for appeal, the appeal will not be considered.

A timely appeal will stay the imposition of sanctions. Any interim measures imposed before or during the grievance process will remain in effect pending the resolution of the appeal.

Once the Title IX Coordinator receives a valid notice of intent to appeal, the Title IX Coordinator will notify all parties of the appeal, the ground(s) on which the appeal is sought, and the procedures for the appeal. Once the parties receive notice of the appeal from the Title IX Coordinator, the parties will have seven (7) Business Days to submit a written statement and any new evidence to the decision maker on appeal in support of, or challenging, the outcome. Any party who does not timely submit his or her written statement or new evidence will be barred from doing so absent a showing of exceptional circumstances. It will be in the sole discretion of the decision maker on appeal whether to allow any extensions in the time to submit a written statement or new evidence.

The decision maker on appeal will review the timely submitted written statements, any new evidence and the record as appropriate. Only facts or arguments concerning the above-listed grounds for an appeal will be considered in rendering his/her decision. Once a decision is made, he/she will contemporaneously send the written decision to each party's School-provided email account, describing the result of the appeal and the rationale for the result.

Once the decision maker on appeal sends his/her decision to the parties, all matters will be final. No further appeals will be considered.

## **Disciplinary Options**

**Penalties:** Substantiated accusations of sexual violence or sex-based harassment may result in disciplinary action against the offender, up to and including termination of the employee's employment or the student's enrollment. Other potential penalties include: suspension for up to 6 months, community service, probation, no-contact order, or violence prevention training. In case of any formal proceedings against student or employee accused of violating this policy, the penalties shall be as proposed by the decision maker from the live hearing. In addition, complainants who make accusations of sexual harassment in bad faith may be subject to equivalent disciplinary action.

**Remedies:** As determined appropriate by the decision maker from the live hearing, substantiated accusations of sexual violence or sexual harassment may result in remedies for the complainant in addition to or in lieu of disciplinary action for the respondent. Remedies are intended to restore or preserve equal access to the School's education program or activity, and include the same individualized services described as supportive measures under the Role of the Title IX Coordinator earlier in this Report, such as changes to classes, attendance times, parking arrangements, and/or externship locations where applicable, restrictions on contact, as well as extensions of time or other course related adjustments. However, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.