

AUBURN UNIVERSITY

**PROCEDURES FOR INVESTIGATING AND RESOLVING
REPORTS OF SEXUAL AND GENDER-BASED MISCONDUCT
AND OTHER FORMS OF INTERPERSONAL VIOLENCE**

Applies to Reports Against Students, Employees, and Third Parties

Table of Contents

I. INTRODUCTION 2

II. REPORTING..... 2

III. EXPECTATIONS OF COMPLAINANTS AND RESPONDENTS 3

IV. INITIAL ASSESSMENT..... 5

V. UNIVERSITY ACTIONS FOLLOWING INITIAL ASSESSMENT..... 6

 A. DETERMINATION OF COURSE OF ACTION 6

 1. Where the Complainant Wishes to Pursue Formal Resolution 6

 2. Where the Complainant Requests Anonymity, that an Investigation not be Pursued,
 and/or that No Disciplinary Action Be Taken..... 6

 B. NOTICE TO PARTIES OF UNIVERSITY ACTIONS 9

 C. NOTICE OF POTENTIAL UNIVERSITY ACTIONS AGAINST STUDENT GROUPS
 OR ORGANIZATIONS..... 9

VI. UNIVERSITY RESOLUTION 9

 A. FORMAL RESOLUTION..... 9

 1. Investigation 10

 2. Notice of Responsibility or Non-Responsibility..... 13

 3. Sanction..... 14

 4. Final Investigation Report..... 17

 5. Notice of Outcome 17

 6. Appeal 17

 7. Release of Documents..... 18

 B. ALTERNATIVE RESOLUTION 19

 C. ACADEMIC TRANSCRIPT NOTATIONS..... 21

 D. RECORDS RETENTION 21

I. INTRODUCTION

Auburn University (the “University”) is committed to providing a safe and non-discriminatory environment for all members of the University community. The University prohibits Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Sexual and Gender-Based Harassment, Complicity, and Retaliation (together, “Prohibited Conduct”). These forms of Prohibited Conduct are defined in the [University’s Policy on Sexual and Gender -Based Misconduct and Other Forms of Interpersonal Violence](#) (the “Policy”). This document identifies the procedures (the “Procedures”) the University follows when it receives a report alleging Prohibited Conduct committed by a Student, Employee, or Third Party. The University uses these Procedures to investigate and adjudicate any such reports, to provide interim measures, and to impose disciplinary sanctions against Students, Employees, and Third Parties found responsible for violating the Policy.¹

II. REPORTING

The University encourages anyone² who experiences or becomes aware of an incident of Prohibited Conduct to *immediately* report the incident to local law enforcement and to the University through the following reporting options:

To Law Enforcement:

- 911 (for emergencies)
- Auburn Police Division (334) 501-3100 (for non-emergencies)
- Opelika Police Department (334) 705-5220 (for non-emergencies)
- Lee County Sheriff’s Office (334) 794-5651 (for non-emergencies in unincorporated areas of Lee County, AL)

To the University:

- By contacting the University’s Title IX Coordinator or any Deputy Title IX Coordinator by telephone, email, or in person during regular office hours:

Kelley Taylor, Title IX Coordinator

Director, Affirmative Action/Equal Employment Opportunity

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¹These Procedures should be read in conjunction with the Policy. Capitalized terms used and not otherwise defined in these Procedures are defined in the Policy.

²Pursuant to University policy, certain University employees, called “Responsible Employees,” are *required* to report to the Title IX Coordinator all information disclosed to them about an incident of Prohibited Conduct. See Section V.B. of the Policy for more discussion of employee reporting responsibilities.

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- Through <http://bit.ly/aureport>, the University's website for online reporting (which allows for anonymous reporting).

A Complainant may choose to make a report to the University to pursue resolution under these Procedures and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time. A Complainant has the right to notify or decline to notify law enforcement. The University will assist any individual in contacting law enforcement and will provide transportation to do so. In the event of a health or safety emergency, the University may report an incident of Prohibited Conduct directly to law enforcement.

The University also offers access to confidential resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or instead of) making a report to the University. The following guide identifies confidential resources, both at the University and in the Lee County community, and further explains options for reporting Prohibited Conduct to the University and to law enforcement:

- Resources, Information, and Support for Addressing Sexual Misconduct:
<http://www.auburn.edu/administration/aaeeo/docs/SexualAssaultResources.pdf>

Complainants are entitled to receive information, assistance, and a broad range of support and remedial measures regardless of whether they choose to pursue criminal and/or University disciplinary resolution of Prohibited Conduct.

III. EXPECTATIONS OF COMPLAINANTS AND RESPONDENTS

Pursuant to these Procedures, Complainants and Respondents can expect:

- A. Prompt and equitable resolution of allegations of Prohibited Conduct;
- B. Privacy in accordance with the Policy and any legal requirements;
- C. Reasonably available interim remedial measures, as described in these Procedures and in the applicable Resource Guide;
- D. Freedom from Retaliation for making a good faith report of Prohibited Conduct or participating in any proceeding under the Policy;
- E. The responsibility to refrain from Retaliation directed against any person for making a good faith report of Prohibited Conduct or participating in any proceeding under the Policy;
- F. The responsibility to provide truthful information in connection with any report, investigation, or resolution of Prohibited Conduct under the Policy or these Procedures;
- G. Timely notice of any meeting or proceeding at which the party's presence is expected under these Procedures;
- H. The opportunity to have an advisor of choice, including the right to have that advisor attend any meeting or proceeding at which the party's presence is expected under these Procedures;
- I. Written notice of an investigation, including notice of potential Policy violations and the nature of the alleged Prohibited Conduct;
- J. The opportunity to challenge the Investigator or any decision maker for actual bias or conflict of interest;
- K. The opportunity to offer or present information and identify witnesses during an investigation;
- L. Timely and equal access to any information that will be used during Alternative or Formal Resolution proceedings and related meetings;
- M. The opportunity to be heard prior to the final determination of a Policy violation and the imposition of any sanction(s);
- N. Reasonable time to prepare any response allowed by these Procedures;
- O. Written notice of any extension of timeframes for good cause, and the reason for the extension; and

- P. Written notice of the outcome of any Formal Resolution proceedings, including the determination of a Policy violation, imposition of any sanction(s), and the rationale for each.

IV. INITIAL ASSESSMENT

Upon receipt of a report of Prohibited Conduct committed by a Student, Employee or Third Party, the Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. In this initial assessment, the Title IX Coordinator will:

- A. Assess the Complainant's safety and well-being and offer the University's immediate support and assistance;
- B. Assess the nature and circumstances of the report;
- C. Inform the Complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- D. Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, seek a protective order, and to have University assistance in doing so;
- E. Inform the Complainant about University and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures;
- F. Inform the Complainant of the option to seek Alternative Resolution (where available) or Formal Resolution under these Procedures; ascertain the Complainant's expressed preference (if the Complainant has, at the time of the initial assessment, expressed a preference) for pursuing Alternative Resolution, Formal Resolution, or neither; and discuss with the Complainant any concerns or barriers to participating in any University investigation and resolution under these Procedures;
- G. Explain the University's prohibition against Retaliation and that the University will take prompt action in response to any act of Retaliation;
- H. Ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is under 18, determine whether the conduct must be reported under state law; and
- I. Communicate with appropriate University officials to determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log

and/or issuance of a timely warning, and take steps to meet those obligations.

The Title IX Coordinator (or trained designee) will ensure that the Complainant receives a written explanation of all available resources and options and is offered the opportunity to meet to discuss those resources and options. When a decision is reached to initiate an investigation or to take any other action under these Procedures that impacts a Respondent (including the imposition of interim protective measures), the Title IX Coordinator will ensure that the Respondent is notified, receives a written explanation of all available resources and options, and is offered the opportunity to meet to discuss those resources and options.

V. UNIVERSITY ACTIONS FOLLOWING INITIAL ASSESSMENT

A. DETERMINATION OF COURSE OF ACTION

Upon completion of the initial assessment, the Title IX Coordinator, in consultation with designated administrators, if necessary, will determine the course of action under these Procedures, which may include Formal Resolution and/or Alternative Resolution (if available). Where the Complainant requests that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no further action be taken, the Title IX Coordinator will seek to honor the preferences of the Complainant if possible to do so in the context of the University's broader obligations to Title IX and campus safety. In all cases, records of the initial report, the initial assessment, and the determinations of the Title IX Coordinator will be documented and retained by the University in accordance with applicable law.

1. Where the Complainant Wishes to Pursue Formal Resolution. In *every* case in which the Complainant reports Prohibited Conduct and requests an investigation and disciplinary action, the Title IX Coordinator will promptly initiate Formal Resolution under these Procedures.

2. Where the Complainant Requests Anonymity, that an Investigation not be Pursued, and/or that No Disciplinary Action Be Taken. A Complainant may request that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken. In evaluating this request, the University will balance that request against the University's obligation to provide a safe, non-discriminatory learning, living, and working environment for all community members, including the Complainant.

The University will seek to honor the Complainant's request(s) if it is possible to do so while also protecting the health and safety of the Complainant and the University community. The Title IX Coordinator will consider the following factors in evaluating such request(s): (1) the totality of the known circumstances; (2) the presence of any Risk Factors, as described below; (3) the potential impact of such action(s) on the Complainant; (4) any evidence showing that the Respondent made statements of admission or otherwise accepted responsibility for the Prohibited Conduct; (5) the existence of any independent information or evidence regarding the Prohibited Conduct;

and (6) any other available and relevant information.

Risk Factors: The University will consider the following factors to evaluate the risk to health and safety by not proceeding with Formal Resolution:

- Whether the Respondent has prior arrests, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior;
- Whether the Respondent has a history of failing to comply with any University No-Contact Directive, other University protective measures, and/or any judicial protective order;
- Whether the Prohibited Conduct involved physical violence or force. “Physical violence” or “force” means exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon;
- Whether the Respondent has threatened to commit violence or any form of Prohibited Conduct;
- Whether the Prohibited Conduct was facilitated through the use of “date-rape” or similar drugs or intoxicants;
- Whether the Prohibited Conduct occurred while the Complainant was unconscious, physically helpless, or unaware that the Prohibited Conduct was occurring;
- Whether the Prohibited Conduct involved multiple Respondents;
- Whether the report reveals a pattern of Prohibited Conduct (e.g., by the Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);
- Whether the Complainant is (or was at the time of the Prohibited Conduct) under 18 years old; and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

- a) Determination that a Complainant’s Request(s) *Can* be Honored. Where the Title IX Coordinator determines that a Complainant’s request(s) (that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken) can be honored, the University will nevertheless take other appropriate steps designed to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant and the University community. Those steps may include offering appropriate remedial measures to the Complainant, providing targeted training or prevention programs, and/or providing or imposing other remedies tailored to the circumstances as a form of Alternative Resolution.

At any time, a Complainant may elect to pursue an investigation and Formal Resolution under these Procedures. The Title IX Coordinator also may reopen a report under these Procedures if any new or additional information

becomes available.³

- b) Determination that a Complainant's Request(s) **Cannot** be Honored. Where the Title IX Coordinator has determined that a Complainant's request(s) (that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken) cannot be honored (i.e., because honoring the Complainant's request(s) would impede the University's ability to ensure the health and safety of the Complainant and other members of the University community), the Title IX Coordinator will take any appropriate University actions, which may include: (i) imposing a No- Contact Directive; (ii) initiating an investigation and Formal Resolution under these Procedures; and/or (iii) arranging, imposing, or extending any other appropriate remedial and/or protective measures. For Students, appropriate actions may also include: (i) recommending that the Vice President for Student Affairs impose Interim Disciplinary Suspension on the Respondent or (ii) causing the University Registrar to place a "hold" on the Respondent's University transcript. For Employees, appropriate actions may also include, in consultation with the Respondent's supervisor and Human Resources, placing the Respondent on administrative leave, with or without pay. For Third-Party Respondents, appropriate actions may include: (i) termination of the relationship with the University and/or (ii) withdrawing their privileges of being on University premises.

Where the Title IX Coordinator has determined that the University must proceed with an investigation despite a Complainant's request to the contrary, the Title IX Coordinator will make reasonable efforts to protect the privacy of the Complainant. However, actions that may be required as part of the University's investigation typically involve speaking with the Respondent and others who may have relevant information, in which case the Complainant's identity may have to be disclosed. In such cases, the Title IX Coordinator will notify the Complainant that the University intends to proceed with an investigation, but that the Complainant is not required to participate in the investigation or in any other actions undertaken by the University.

Where a Complainant declines to participate in an investigation, the University's ability to meaningfully investigate and respond to a report may be limited. In such cases, the Title IX Coordinator may pursue the report if it is possible to do so without the Complainant's participation in the investigation or resolution (e.g., where there is other relevant evidence of the Prohibited Conduct, such as recordings from security cameras, corroborating reports from other witnesses, physical evidence, or any evidence showing that the Respondent made statements of admission or otherwise accepted

³ Although a report may be reopened at any time, the University's ability to respond may be limited if the Respondent is no longer affiliated with the University.

responsibility for the Prohibited Conduct). In the absence of such other evidence, however, the University may only be able to respond to the report in limited and general ways (i.e., through the provision of remedial measures, targeted training or prevention programs, or other remedies tailored to the circumstances).

B. NOTICE TO COMPLAINANT AND RESPONDENT OF UNIVERSITY ACTIONS

The Title IX Coordinator will promptly inform the Complainant of any action(s) undertaken by the University to respond to a health or safety threat to the Complainant or the University community, including the decision to proceed with an investigation. The Title IX Coordinator also will promptly inform the Respondent of any action(s) (including any interim protective measures) that will directly impact the Respondent, and provide an opportunity for the Respondent to respond to such action(s). The Title IX Coordinator retains the discretion to impose and/or modify any interim remedial or protective measures based on all available information. Interim protective measures will remain in effect until the resolution of the report, unless new circumstances arise which warrant reconsideration of the protective measures prior to the resolution. A Complainant or Respondent may challenge interim protective measures or other actions, or failure to impose interim remedial or protective measures or take other actions, by contacting the Title IX Coordinator to address any concerns.

C. NOTICE OF POTENTIAL UNIVERSITY ACTIONS AGAINST STUDENT GROUPS OR ORGANIZATIONS.

If, upon completion of the initial assessment, the Title IX Coordinator determines that a report of Prohibited Conduct reveals involvement of, or a pattern of behavior by, a particular Student group or organization (e.g., agency group, special status organization, fraternity, sorority, contracted independent organization, club sport, and/or athletic team), the Title IX Coordinator may impose any appropriate remedial or protective measures contemplated by these Procedures (e.g., training and/or prevention programs targeted to Student members of the group or organization). The Title IX Coordinator will also consult with relevant University officials regarding any appropriate University action directed at the Student group or organization, including, but not limited to, modification, suspension, or termination of the Student group's or organization's agreement or status with the University.

VI. UNIVERSITY RESOLUTION

These Procedures offer two forms of resolution of reports of Prohibited Conduct: (1) Formal Resolution, which involves an investigation, review, and sanction (if applicable) (as described in Section VI.A of these Procedures), and (2) Alternative Resolution (as described in Section VI.B of these Procedures), which includes a variety of informal and non-disciplinary options for resolving reports.

A. FORMAL RESOLUTION

Formal Resolution is commenced when:

- A Complainant reports that a Student, Employee, or Third Party has engaged in one or more instances of Prohibited Conduct and requests, at any time, an investigation and disciplinary action; or
- Alternative Resolution does not resolve a reported incident of Prohibited Conduct and, in the Title IX Coordinator's discretion, an investigation of the report of Prohibited Conduct is required; or
- At the conclusion of the initial assessment process described in Section IV. of these Procedures, the Title IX Coordinator has determined, based upon a review of the totality of the circumstances and guided by a consideration of the Risk Factors, that investigation of the reported conduct is necessary to ensure the health and safety of the Complainant and/or other members of the University community, notwithstanding the Complainant's request that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no disciplinary action be taken.

1. Investigation. Whenever Formal Resolution is commenced, the Title IX Coordinator will designate one or more Investigators from the University's Affirmative Action/Equal Employment Opportunity (AA/EEO) Office and/or an experienced external investigator to conduct a prompt, thorough, fair, and impartial investigation. All Investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of Complainants and the University community while promoting accountability.

a) Notice of Investigation. The Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the commencement of an investigation. The notice will (1) identify the Complainant and the Respondent; (2) specify the date, time (if known), location, and nature of the alleged Prohibited Conduct; (3) identify potential Policy violation(s); (4) identify the Investigator(s); (5) include information about the parties' respective expectations under the Policy and these Procedures; (6) explain the prohibition against Retaliation; (7) instruct the parties to preserve any potentially relevant evidence in any format; (8) inform the parties how to challenge participation by the Investigator(s) on the basis of bias or a conflict of interest; and (9) provide a copy of the Policy and these Procedures.

b) Potential Violations of Other University Policies. If a report of Prohibited Conduct also implicates other forms of discriminatory and/or harassing conduct prohibited by the University's Prohibited Harassment Policies, any other violation(s) of the University's Code of Student Discipline or other University disciplinary policies, the Title IX Coordinator, in consultation with other relevant administrators, will evaluate all reported allegations to

determine whether the alleged Prohibited Conduct and the other alleged policy violation(s) may be appropriately investigated together without unduly delaying the resolution of the report of Prohibited Conduct under these Procedures. Where the Title IX Coordinator determines that a single investigation is appropriate, the determination of responsibility for the violation of University policy will be evaluated under the definitions in the applicable policy, but the investigation and resolution will be conducted in accordance with these Procedures.

- c) Presumption of Non-Responsibility and Participation by the Parties. The investigation is a neutral fact-gathering process. The Respondent is presumed to be not responsible; this presumption may be overcome only where the decision-maker concludes that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Policy. Neither party is required to participate in the investigation nor any form of resolution under these Procedures, and the Investigator will not draw any adverse inference from a decision by either of the parties not to participate.
- d) Timeframe for Completion of Investigation; Extension for Good Cause. Typically, the period from commencement of an investigation (the date of the Notice of Investigation) through resolution (finding and sanction, if any) will not exceed sixty (60) calendar days. This timeframe, and any more specific time frame set forth in these Procedures, may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. The Investigator will notify the parties in writing of any extension of this timeframe and the reason for such extension.
- e) Overview of Investigation. During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, and to identify witnesses who may have relevant information. The Investigator will notify and seek to meet separately with the Complainant, the Respondent, and other witnesses, and will gather other relevant and available evidence and information, including electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email, and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party).
- f) Medical and Counseling Records. Medical and counseling records of a

Complainant and Respondent are privileged confidential records that individuals are not required to disclose. However, these records may contain relevant and material information and a party may voluntarily choose to share such records with the Investigator. Any records provided by a party become part of the file and are available to review by the opposing party.

- g) Advisors. Throughout the investigation and resolution process, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation and resolution of a report under these Procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.
- h) Prior or Subsequent Conduct. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. Such prior or subsequent conduct may also constitute a violation of the Prohibited Harassment policies, the University's Code of Student Discipline, or other University disciplinary policies, in which case it may subject the Respondent to additional sanctions. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.
- i) Prior Sexual History. The sexual history of a Complainant will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of the Complainant is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, if the existence of Affirmative Consent is at issue, the prior sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether Affirmative Consent was sought and given during the incident in question. However, even in the context of a relationship, Affirmative Consent to one sexual act does not, by itself, constitute Affirmative Consent to another sexual act, and Affirmative Consent on one occasion does not, by itself, constitute Affirmative Consent on a subsequent occasion. In addition, prior sexual

history may be relevant to explain the presence of a physical injury or to help resolve another question raised by the report. The Investigator will determine the relevance of this information and both parties will be informed if evidence of a Complainant's prior sexual history is deemed relevant.

- j) Relevance. The Investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the Investigator will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for any character trait.
- k) Site Visit(s). The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means.
- l) Expert Consultation(s). The Investigator may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.
- m) Coordination with Law Enforcement. The Investigator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a University investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation. At the request of law enforcement, the Investigator may delay the University investigation temporarily while an external law enforcement agency is gathering evidence. The Investigator, however, will not unduly delay the investigation and will promptly resume the University investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.
- n) Preliminary Investigation Report. At the conclusion of the investigation, the Investigator will prepare a Preliminary Investigation Report summarizing the information gathered and outlining the contested and uncontested information. The Preliminary Investigation Report will not include any factual findings, credibility determinations, or determinations of responsibility. The Complainant and the Respondent will have an opportunity to review the Preliminary Investigation Report; meet with the Investigator; submit additional written comments and information to the Investigator; and identify any additional witnesses or evidence for the Investigator to pursue. The Investigator will designate a reasonable time for this review and response by the parties, not to exceed five (5) calendar days. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator during the designated review and response period will not be considered in the determination of responsibility for a violation of the Policy.

2. Notice of Responsibility or Non-Responsibility. Unless there are significant

additional investigative steps requested by the parties or identified by the Investigator, within five (5) calendar days after receipt and consideration of any additional comments and/or information submitted by the parties during the designated review and response period, the Investigator will prepare a Notice of Responsibility or Non-Responsibility, which will include a determination as to whether there is sufficient information, by a Preponderance of the Evidence, to support a finding of responsibility for a violation of the Policy (and, where applicable, the Prohibited Harassment policies, the University's Code of Student Discipline, or other University disciplinary policies).

a) Acceptance of Responsibility. The Respondent may, at any time, elect to resolve the Formal Resolution process by accepting responsibility for the Prohibited Conduct, in which case the Investigator will determine the appropriate sanction(s) and the Title IX Coordinator will issue a Notice of Outcome as set forth below.

3. Sanction. Following a finding of responsibility for a violation of the Policy, the Investigator will also determine the appropriate sanctions, if applicable.

a) Tailored Sanction. The Policy prohibits a broad range of conduct, all of which is serious in nature. The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and circumstances as found by the Investigator. In keeping with the University's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the Policy provides the Investigator with wide latitude in the imposition of sanctions tailored to the facts and circumstances of the Prohibited Conduct, the impact of the conduct on the Complainant and University community, and accountability by the Respondent. Where a Respondent is both a Student and an Employee, the Respondent may be subject to any of the sanctions applicable to Students or Employees. Third Parties who commit Prohibited Conduct may have their relationships with the University terminated and/or their privileges of being on University premises withdrawn. The University's ability to take appropriate action against a Third Party will be determined by the nature of the relationship of the Third Party to the University.

b) Purpose of Sanction. The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and legal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension or expulsion from the University for a Student or termination for an Employee.

- c) Sanctioning Considerations. Once the Investigator has determined that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility under the Policy, any one or more sanctions may be imposed. In determining the appropriate sanction(s), the Investigator will be guided by a number of considerations, including:
- The severity, persistence, or pervasiveness of the Prohibited Conduct;
 - The nature or violence (if applicable) of the Prohibited Conduct;
 - The impact of the Prohibited Conduct on the Complainant;
 - The impact or implications of the Prohibited Conduct within the University community;
 - Prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history, at the University or elsewhere, and any criminal convictions;
 - Whether the Respondent has accepted responsibility for the Prohibited Conduct;
 - The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
 - Any other mitigating, aggravating, or compelling factors.
- d) Impact and Mitigation Statements. Where there is a finding of responsibility on one or more of the allegations, both parties may submit a statement to the Investigator for consideration in determining an appropriate sanction. The Complainant may submit a written statement describing the impact of the Prohibited Conduct on the Complainant and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. The Investigator will ensure that each of the parties has an opportunity to review any statement submitted by the other party. These statements are to be submitted within three (3) calendar days of the Notice of Responsibility.
- e) Additional Remedies. In addition to other sanctions, set forth below, the Title IX Coordinator and/or Investigator may also impose or extend additional remedies, such as:
- a No-Contact Directive;
 - Academic, University housing, and/or University employment modifications, as may be appropriate;
 - Formal referral to the Employee Assistance Program for Employee Respondents;
 - Counseling for Student Respondents;
 - Increased monitoring, supervision, and/or security at locations or in connection with activities where the Prohibited Conduct occurred or is likely to reoccur;

- Arrangements for conducting targeted or broad-based educational programming or training for relevant persons or groups;
- One or more restorative remedies to encourage a Respondent to develop insight about the Prohibited Conduct, learn about the impact of that Prohibited Conduct on the Complainant and the University community, and identify how to prevent that Prohibited Conduct in the future (including community service and mandatory participation in training, education, and/or prevention programs related to the Prohibited Conduct); and/or
- Any other remedial or protective measures that are tailored to achieve the goals of the Policy.

f) Sanctions for Student Respondents. Where there is a finding of responsibility, the Investigator may impose one or more sanctions. Sanctions for Student Respondents may include any of the following:

- Expulsion: Termination of student status for any indefinite period.
- Suspension: Exclusion from classes and other privileges or activities or from the University for a definite period of time.
- Suspension held in abeyance: Exclusion from classes and other privileges or activities or from the University for a definite period of time to be enforced should another violation occur.
- Restitution: Reimbursement for damages or misappropriation of property.
- Disciplinary Probation: Exclusion from participation in privileged or extracurricular activities for a definite period of time.
- Reprimand: A written censure for violation of the Policy (and, if applicable, the Prohibited Harassment policies and/or the Code of Student Discipline) placed in the Student's record, including the possibility of more severe disciplinary sanctions should another violation occur within a stated period of time.
- Warning Notice: A notice, in writing, that continuation or repetition of conduct found wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.
- Admonition: An oral statement that the Student violated the Policy (and, if applicable, the Prohibited Harassment policies and/or the Code of Student Discipline).

g) Sanctions for Employee Respondents. Where there is a finding of responsibility, the Investigator may impose one or more sanctions. The Investigator may consult with Human Resources, the Employee's supervisor, or other administrators in the Employee's chain of command in determining an appropriate sanction. Information will be provided to these parties only on a need-to-know basis. Sanctions for Employees will be appropriate for the type of Employee involved and may include any of the following:

- Informal and formal counseling
- Written reprimand
- Written final reprimand
- Suspension with or without pay
- Demotion
- Termination of employment
- Any other progressive disciplinary action
- University No-Contact Directive and/or no trespass order
- Transfer of position
- Removal of administrative appointment
- Recommended initiation of tenured faculty dismissal process
- Performance improvement plan required education/ training
- Loss of annual pay increase
- Loss of supervisory responsibility

h) Sanctions for Third-Party Respondents. Where there is a finding of responsibility, the Investigator may impose one or more sanctions:

- Termination of the relationship with the university
- Withdrawal of privileges of being on University premises

i) Imposition of Sanction. Sanctions are effective immediately upon the issuance of the Notice of Outcome, unless otherwise specified.

4. Final Investigation Report. Within five (5) calendar days of receipt of the Impact and Mitigation statements, the Investigator(s) will prepare a Final Investigation Report, which will set forth any sanctions to be imposed.

5. Notice of Outcome. The Investigator(s) will deliver the Final Investigation Report to the Title IX Coordinator. Within two (2) calendar days of receipt of the Final Investigation Report (or such longer time as required for good cause), the Title IX Coordinator will notify both parties, concurrently, that the Final Investigation Report is complete and that a finding has been reached (the “Notice of Outcome”). The Notice of Outcome will set forth the violation(s) of the Policy (and, if applicable, the Prohibited Harassment policies, the Code of Student Discipline or other University disciplinary policies) for which the Respondent was found responsible or not responsible, the rationale for the findings; the sanction(s), (where appropriate) imposed against the Respondent; and the rationale for any sanction(s) imposed. The Notice of Outcome may also identify protective measures implemented with respect to the Respondent or the broader University community. The Notice of Outcome will not disclose any remedial measures provided to the Complainant.

6. Appeal. Either party may appeal the decision of the Investigator(s) by submitting a written statement outlining the basis for appeal within ten (10) calendar days of the Notice of Outcome. The party may appeal a finding of responsibility, a finding of non-responsibility, and/or the sanctions imposed by the Investigator. If one party files an appeal, the Title IX Coordinator will ensure that the other party has an opportunity to review and respond in writing within ten (10) calendar days to any such statement.

- a) Grounds for Appeal. Appeals will only be considered if they raise one of the following concerns: 1) procedural error that materially impacted the outcome; 2) lack of sufficient evidence to support the Investigator's finding(s) by a Preponderance of the Evidence; 3) sanction(s) grossly disproportionate to the violations committed, considering relevant aggravating and/or mitigating factors; or 4) substantial new evidence that was not previously available, but that would materially impact the outcome.
- b) Appellate Authority. The appeal will be decided by a senior administrator or external adjudicator who will serve as an impartial decision-maker. Any person serving as an Appellate Authority must be impartial and free from actual bias or conflict of interest. The parties will be provided the name of the Appellate Authority and given two days to contest the participation of the Appellate Authority for bias or conflict of interest.
- c) Scope of Review. The Title IX Coordinator will provide the Final Investigation Report, Notice of Outcome, any Impact Statements by the parties and the written appeals statements to the Appellate Authority for review and decision.
- d) Appeal Decision. If the determination of responsibility (or no responsibility) is being contested, the Appellate Authority will determine whether the Investigator's finding should be upheld or overturned. If a finding of responsibility is overturned, that decision is final. If a finding of no responsibility is overturned, the Appellate Authority will then determine appropriate sanctions based on the same considerations listed in Section VI.A.3, above.

If the sanctions are being contested, the Appellate Authority will determine whether the sanctions should be upheld or overturned. If the sanctions are overturned, the Appellate Authority will determine the appropriate sanctions. The sanctions should be based on the same considerations listed in Section VI.A.3, above.

The Appellate Authority may choose to consult with the Title IX Coordinator or other relevant University officials in determining appropriate sanctions. The sanctions imposed by the Appellate authority are final and will be effective immediately.

e) Final Outcome Letter. The Appellate Authority will concurrently issue a written decision (the “Final Outcome Letter”) to both the Complainant and the Respondent, with a copy to the Title IX Coordinator, within ten (10) calendar days. The Final Outcome Letter will set forth the violation(s) of the Policy (and, if applicable, the Prohibited Harassment policies, the Code of Student Discipline, or other University disciplinary policies) for which the Respondent was found responsible or not responsible, as supported by the rationale set forth in the Final Investigation Report and/or modified by the Appellate Authority; the sanction(s) (where appropriate) imposed against the Respondent; and the rationale for any sanction(s) imposed as set forth in the Final Investigation Report and/or modified by the Appellate Authority. The Final Outcome Letter may also identify protective measures implemented with respect to the Respondent or the broader University community. The Final Outcome Letter will not disclose any remedial measures provided to the Complainant.

7. **Release of Documents**. Under federal privacy laws, the Final Investigation Report, statements of one party that are shared with the other party in the resolution process, and any documents prepared by the University, including documents by or for the Appellate Authority constitute education records which may not be disclosed outside of the proceedings, except as may be required or authorized by law. The University does not, however, impose any restrictions on the parties regarding re-disclosure of the incident, their participation in proceedings under these Procedures, or the Final Outcome Letter.

B. ALTERNATIVE RESOLUTION

The Complainant may seek Alternative Resolution instead of an investigation and Formal Resolution. The University, however, has the discretion to determine whether the nature of the reported conduct is appropriate for Alternative Resolution, to determine the type of Alternative Resolution that may be appropriate in a specific case, and, pursuant to Section VI.A. of these Procedures, to refer a report for Formal Resolution at any time. In addition, Alternative Resolution may not be available where the Title IX Coordinator has determined that one or more of the Risk Factors listed in Section V.A.2 of these Procedures is present. **Forms of Alternative Resolution that involve face-to-face meetings between the Complainant and the Respondent, such as mediation, are not available in cases involving Sexual Assault.**

Participation in Alternative Resolution (including any specific form of Alternative Resolution) is voluntary. The University will not compel a Complainant or Respondent to engage in Alternative Resolution, will not compel a Complainant to directly confront the Respondent, and will allow a Complainant or Respondent to withdraw from Alternative Resolution at any time. The University may decline the request for Alternative Resolution in any particular case and may end an ongoing Alternative

Resolution process at any time. Pursuing Alternative Resolution does not preclude later use of Formal Resolution if the Alternative Resolution fails to achieve a resolution acceptable to the parties and the University. Where the Complainant or the Respondent withdraws from Alternative Resolution or Alternative Resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the Alternative Resolution may be considered in a subsequent investigation and Formal Resolution.

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

Alternative Resolution may include:

- Resolution with the Assistance of a Third Party: A Complainant may seek assistance in informally resolving a report of Prohibited Conduct from the Title IX Coordinator, who can arrange to have a trained representative facilitate a meeting or meetings between the parties. The availability of this form of Alternative Resolution, and any resolution reached through such form of Alternative Resolution, is subject to the agreement of the Title IX Coordinator, the Complainant, and the Respondent. This form of Alternative Resolution may not be used where the allegation involves Sexual Assault.
- Interventions and Remedies: Alternative Resolution agreements may involve a broad range of interventions and remedies, such as actions designed to maximize the Complainant's access to educational, extracurricular, and/or University employment activities; increased monitoring, supervision, and/or security at locations or activities where the Prohibited Conduct occurred or is likely to reoccur; targeted or broad-based educational programming or training for relevant individuals or groups; academic and/or University housing modifications for Student Complainants; workplace modifications for Employee Complainants; one or more of the restorative remedies or other sanctions described in these Procedures; and/or any other remedial or protective measures that can be tailored to the involved individuals to achieve the goals of the Policy.

Any form of Alternative Resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to the University, the Complainant, and the Respondent is reached through Alternative Resolution, the terms of the agreement are implemented, a Notice of Outcome is issued to the parties, and the matter is resolved and closed. If an agreement is not reached, and the Title IX Coordinator determines that further action is necessary, or if a Respondent fails to comply with the terms of the

Alternative Resolution, the matter may be referred for an investigation and Formal Resolution under these Procedures.

The Title IX Coordinator will maintain records of all reports and conduct referred for Alternative Resolution, which typically will be completed within thirty (30) calendar days.

C. ACADEMIC TRANSCRIPT NOTATIONS

If a student is expelled or suspended from the University or withdraws from the University while under investigation for Prohibited Conduct pursuant to the Policy, a letter shall be attached to the Student's academic transcript. This action shall be taken to notify other schools or prospective employers that the Student is not presently in good standing with the University. Such letter will reflect, as appropriate, the following language: "[Suspended, Expelled, or Withdrew While Under Investigation] for a Violation of the University's Policy on Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Violence." The Title IX Coordinator will direct the University Registrar to remove any such letter where a Student is subsequently found not responsible for an act of Prohibited Conduct pursuant to the Policy. In instances where a Student who has been suspended for Prohibited Conduct pursuant to the Policy has (i) completed the term of such suspension and any conditions thereof and (ii) has been determined by the University to be in good standing pursuant to all applicable University academic and non-academic standards, the Student may request that the letter be removed. This request must be submitted in writing to the Title IX Coordinator, who will direct the University Registrar to remove the letter.

D. RECORDS RETENTION

The University shall retain all records relating to a report of Prohibited Conduct for a period of ten years after the date the report was received, and the University shall retain all such records for a period of twenty years in cases in which the Respondent was found responsible for Prohibited Conduct.