

# **Missouri Southern State University**

## **Sexual Misconduct Policy & Complaint Resolution Procedures**

## **SEXUAL MISCONDUCT POLICY**

### **I. POLICY STATEMENT**

Missouri Southern State University (the “University”) is committed to establishing and maintaining an environment where individuals are free from sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, stalking, and retaliation (collectively “sexual misconduct”).

The University considers sexual misconduct to be a serious offense because it undermines the atmosphere of trust and respect that is essential to a healthy University Community. As such, sexual misconduct violates the standards of our University Community and constitutes a violation of this policy.

It is a separate violation of this policy to retaliate against any person who reports or assists in making a report of sexual misconduct or who participates in the investigation and resolution of a complaint in any way.

The University will promptly and thoroughly investigate and resolve all complaints of sexual misconduct in accordance with this policy and the Complaint Resolution Procedures. If the University determines that sexual misconduct occurred, the University will take prompt and effective remedial action to prevent the recurrence of the sexual misconduct, eliminate any hostile environment, and address the misconduct’s effects on the victim and others, if applicable.

Individuals found to be in violation of this policy will be subject to disciplinary actions by the University. The discipline imposed will depend on all the facts and circumstances and may include one or more of the following: a requirement not to repeat the conduct at issue, requiring training, written or verbal warning/reprimand, demotion, transfer or reassignment, denial of pay increases, probation, suspension (with or without pay and for varying lengths of time), limitation on participation in particular programs and activities, limitation on access to campus, expulsion, dismissal, or termination. Under certain circumstances, acts of sexual misconduct may also result in criminal and/or civil penalties.

While University employees, as described in Section V.A.1 of this policy are required to report sexual misconduct that they observe or learn about, the University takes seriously reports of sexual misconduct from any interested person.

### **II. SCOPE AND JURISDICTION**

This policy applies to all University employees, including administrators, faculty, and staff; students; applicants for employment; customers; third-party contractors; and all

other persons who participate in the University's educational programs and activities, including third-party visitors on campus (the "University Community").

This policy prohibits sexual misconduct regardless of the gender, gender identity, or sexual orientation of the alleged victim and the alleged perpetrator. The University's prohibition on sexual misconduct extends to all aspects of its educational programs and activities, including, but not limited to, admissions, employment, academics, athletics, housing, and student services.

This policy applies to conduct that occurs on University premises, during or at an official University program or activity (regardless of location), or off University premises when such conduct could interfere with or limit a person's ability to participate in or benefit from the University's educational programs and activities.

The University's jurisdiction over students begins when a student enrolls at Missouri Southern State University. The University's jurisdiction over students covers conduct that occurs when a student is not taking classes for a particular term but nonetheless maintains a continuing relationship with the University, as well as conduct that occurs during regular academic breaks. The University's jurisdiction remains in effect until a student's degree has been officially conferred by the University or other separation from the University occurs.

### **III. TITLE IX STATEMENT AND COORDINATORS**

It is the policy of the University to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit discrimination based on sex in the University's educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for making complaints of sexual misconduct. The University has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of sexual misconduct:

Tamika Harrel  
Title IX Coordinator  
Office: BSC 347G  
Phone: 417-625-3022  
Email: [harrel-t@mssu.edu](mailto:harrel-t@mssu.edu)

The University has also designated the following individuals as Deputy Title IX Coordinators. The Deputy Title IX Coordinators are available to receive inquiries regarding Title IX, including complaints of sexual misconduct, when the Title IX Coordinator is unavailable, if a person is more comfortable engaging with a Deputy, or if the Title IX Coordinator has a conflict of interest. The names and contact information for the Deputy Title IX Coordinators are as follows:

## **Title IX Deputy**

Evan Jewsbury  
Title IX Deputy  
Office: Hearnes 217B  
Phone: [417-625-9805](tel:417-625-9805)  
Email: [jewsbury-e@mssu.edu](mailto:jewsbury-e@mssu.edu)

Samantha Quackenbush  
Title IX Deputy  
Office: Billingsly 347B  
Phone: 417-625-9531  
Email: [quackenbush-s@mssu.edu](mailto:quackenbush-s@mssu.edu)

A person may also file a complaint of sexual misconduct with the United States Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting [www2.ed.gov/about/offices/list/ocr/complaintintro.html](http://www2.ed.gov/about/offices/list/ocr/complaintintro.html) or by calling 1-800-421-3481.

## **IV. PROHIBITED SEXUAL MISCONDUCT**

### **A. Sexual Misconduct**

This policy prohibits sexual misconduct. "Sexual misconduct" is an umbrella term that includes sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, stalking, and retaliation. Sexual misconduct does not depend on the gender, gender identity, or sexual orientation of the alleged victim and alleged perpetrator. Thus, sexual misconduct can occur between persons who consider themselves to be of the same gender, the opposite gender, or to otherwise have differing gender identities.

### **B. Sex Discrimination**

#### **1. Definition of Sex Discrimination**

Sex discrimination occurs when persons are excluded from participation in, or denied the benefits of, any University program or activity on the basis of their sex, including employment. Sex discrimination includes materially adverse treatment or action based on a person's:

- biological sex
- pregnancy status
- gender, gender expression, or sexual identity
- and/or failure to conform to stereotypical notions of masculinity and femininity (so called "gender stereotyping").

Sex discrimination also includes conduct that meets the definitions of sexual harassment and sexual violence, as set forth below.

## 2. Examples of Sex Discrimination

Specific examples of conduct that may constitute sex discrimination include:

- Giving unequal pay, promotions, or other job benefits on the basis of gender.
- Allowing a person's gender to influence the grade conferred in a class.
- Denying persons access to a given degree or major because of their gender.
- Requiring a pregnant student to verify pregnancy-related absences with a doctor's note when such verification is not required of students with other medical conditions.
- Excluding a person from participation in a University-sponsored activity based on stereotypical notions of how a person of a given gender or sexual identity should look, speak, or act.
- Conduct that meets the definition of sexual harassment or sexual violence, as set forth below.

## C. Sexual Harassment

### 1. Definition of Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment rises to the level of sex discrimination, and is prohibited by this policy as sexual misconduct, when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education,
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual, or
- Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creating what a reasonable person would perceive as an intimidating, hostile, or offensive employment, education, or living environment (i.e., a "hostile environment").

In determining whether unwelcome conduct of a sexual nature rises to the level of creating a hostile environment, the University will consider the totality of circumstances, including, but not limited to, the nature and severity of the conduct, the duration of the conduct, whether the conduct is part of a pattern, the age of the potential victim, and whether there is a power differential between the alleged victim and alleged perpetrator.

The University will evaluate the totality of circumstances from the perspective of a reasonable person in the alleged victim's position.

A person's adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

Sexual harassment can take many forms, including verbal, non-verbal, and physical conduct.

## 2. Sexual Harassment, Freedom of Speech, and Academic Freedom

While sexual harassment can include verbal and written conduct, the First Amendment to the U.S. Constitution and University policies establishing academic freedom provide significant space for individuals to express controversial views, teach controversial subjects, and engage in controversial research. As such, the offensiveness of a particular expression, course content, subject of academic inquiry, or research topic, as perceived by some, standing alone, is not sufficient to constitute a violation of this policy. The University will apply and construe this policy consistent with the legal rights of community members under the First Amendment and University policies governing academic freedom.

**Faculty members and students should be aware that conduct occurring in the context of educational instruction may exceed the protections of free speech and academic freedom if it meets the definition of sexual misconduct and is not germane to academic subject matter, lacks a pedagogical purpose, advances the personal interest of a faculty member or student without relating to the learning process or legitimate academic objectives, causes material adverse action against a person, reveals confidential information about a person, is defamatory or libelous, threatens physical harm or imminent violence, or constitutes some other category of speech that is unprotected by the U.S. Constitution or other laws.**

## 3. Examples of Sexual Harassment

Sexual harassment can occur between individuals of the opposite sex and individuals of the same sex. Specific examples of conduct that may constitute sexual harassment if unwelcome include:

- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual activity.
- Kissing, hugging, rubbing, or massaging.
- Sexual innuendos, jokes, humor, or gestures.
- Displaying sexual graffiti, pictures, videos or posters.
- Using sexually explicit profanity.
- Asking, or telling, about sexual fantasies, sexual preferences, or sexual activities.

- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin.
- Calling a person derogatory epithets based on stereotypical notions of how a person of a given sex or sexual identity should look, speak, or act.
- Sending sexually explicit emails, text messages, or social media posts.
- Commenting on a person's appearance or dress in a sexual manner.
- Giving unwelcome personal gifts, such as lingerie, that suggest the desire for a sexual relationship.
- Disseminating sexual pictures or videos of another person without consent regardless of whether the pictures or videos were obtained with consent.
- Sexual violence (as defined below).

#### **D. Sexual Violence**

##### **1. Definition of Sexual Violence**

Sexual violence is a particularly severe form of sexual harassment that, by its very nature, is likely to create a hostile environment. Sexual violence includes physical sexual acts perpetrated without consent or where a person is incapable of giving consent because of physical, mental, or legal incapacity.

Under this policy, sexual violence also includes sexual exploitation, which consists of prostituting another person, secretly recording the sexual activities of a person without their consent, or viewing the sexual activities of another person without their consent (i.e., "peeping" or engaging in voyeurism).

A number of different criminal acts fall into the category of sexual violence, including conduct commonly referred to as "rape," "sexual assault," "forced sodomy," and "sexual battery." See Section IV.D.3 below for further examples of sexual violence.

##### **2. Consent**

Lack of consent is often the critical factor in determining whether Sexual Violence/Assault has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive. The University does not recognize consent by silence.

Under Missouri law, lack of consent for criminal purposes results when a person...is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. "Forcible compulsion" includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent. Mo. Rev. Stat. § 566.030.

If a person is below the minimum age of consent in the applicable jurisdiction, there cannot be consent. In Missouri, the minimum age of consent is 17 years of age.

In addition to Missouri law, the following are essential to understanding what constitutes effective consent under the policy:

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person's physical or mental disability renders them incapable of understanding the fact, nature, or extent of the sexual situation, there is no consent.
- If a person is incapacitated by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent even if the person self-administered the alcohol or drugs.
- If a person is asleep or unconscious, there is no consent.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent. Consent can be withdrawn by verbal or physical conduct that a reasonable person would understand to indicate a desire to stop or not engage in the sexual conduct at issue.
- While consent can be withdrawn, a withdrawal of consent operates going-forward. It does not change the consensual nature of sexual activity that has already occurred.
- Being in a romantic relationship with someone does not imply consent to any form of sexual activity.
- Consent may be deemed invalid when it is obtained in circumstances where one party exercised a position of direct authority or control over another. Effective consent may not exist when there is a disparity in power between the parties; an example of which is when one is in a supervisory or evaluative role over the other, such as a faculty member who is teaching a student or a director who supervises an employee.
- A victim is not required to affirmatively/physically resist or say "stop" in order for there to be Sexual Violence/Assault.

### 3. Examples of Sexual Violence

Sexual violence can occur between persons of the opposite sex or the same sex. Specific examples of sexual violence include:

- Sexual penetration (anal, vaginal, or oral) or touching of sexual organs that is committed by force, threat, intimidation, or otherwise without consent.



- Having sexual intercourse with, or sexually touching, a person who is incapacitated because of drug or alcohol use, including a person who has been given a “date rape drug” or any other drug causing incapacitating impairment.
- Hazing that involves penetrating a person’s vagina or anus with an object.
- Knowingly exposing another person, without their consent, to a sexually transmitted disease (such as HIV, chlamydia, gonorrhea, syphilis, or herpes) through sexual activity.
- Secretly videotaping or photographing sexual activity where the other party has not consented.
- Prostituting another person.
- Exceeding the scope of sexual permission (e.g., having vaginal or anal sex with a person when they have only consented to oral sex).

**E. Domestic Violence, Dating Violence, and Stalking**

Domestic violence, dating violence and stalking are crimes and are prohibited by this policy, no matter what the motivation behind them. Reports of domestic violence, dating violence, and stalking will be addressed pursuant to the Complaint Resolution Procedures below.

1. Definition of Domestic Violence

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Missouri’s definition of domestic violence can be found at Mo. Rev. Stat. § [455.010](#). Under Missouri law, domestic violence also includes the crime of “domestic assault” which can be found at Mo. Rev. Stat. §§ [565.072-565.074](#). Domestic violence does not depend on the gender, gender identity, or sexual orientation of the alleged victim and alleged perpetrator. Thus, domestic violence can occur between persons who consider themselves to be of the same gender, the opposite gender, or to otherwise have differing gender identities.

## 2. Definition of Dating Violence

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on circumstances, such as the alleged victim or alleged perpetrator's statement, and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Missouri law does not specifically define dating violence, but conduct of this nature is covered by Missouri's definitions of domestic violence and domestic assault. Dating violence does not depend on the gender, gender identity, or sexual orientation of the alleged victim and alleged perpetrator. Thus, dating violence can occur between persons who consider themselves to be of the same gender, the opposite gender, or to otherwise have differing gender identities.

## 3. Definition of Stalking

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others who may be targeted by virtue of their relationship with him/her; or (B) suffer substantial emotional distress.

For purposes of the definition of stalking in this policy:

- A course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or other means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.
- "Reasonable person" for purposes of the definition of stalking means a reasonable person under similar circumstances.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Missouri's definition of stalking can be found at Mo. Rev. Stat. § [455.010](#) and § [565.225](#). Stalking can occur between persons of the opposite sex or the same sex.

## **F. Retaliation**

### 1. Definition of Retaliation

Retaliation consists of materially adverse action taken against a person because the person made a good faith report of sexual misconduct or participated in the

investigation of a report of sexual misconduct, such as by serving as a witness or support person.

## 2. Examples of Retaliation

Specific examples of retaliation include:

- Terminating a person's employment, demoting them, denying them a promotion, reducing their pay, or "writing them up" because they made a report of sexual misconduct.
- Sending threatening text messages or social media messages to someone because they made a report of sexual misconduct or gave a statement as a witness.
- Causing physical damage to a person's personal belongings because they made a report of sexual misconduct or gave a statement as a witness.
- Suspending a person from an activity or limiting their involvement because they made a report of sexual misconduct.
- Publishing knowingly false information about a person because they made a report of sexual misconduct.

## 3. Good Faith Reports

The University encourages the good faith reporting of sexual misconduct. However, the University will not allow this policy or the Complaint Resolution Procedures to be abused for improper means. Accordingly, the University may take disciplinary action against any person who makes a bad faith report of sexual misconduct, and such disciplinary action will not constitute prohibited retaliation. A person makes a bad faith report of sexual misconduct if, at the time they make the report, they know the report is false or frivolous. Further, the University may take disciplinary action against any person who knowingly provides false information during the investigation and resolution of a complaint of sexual misconduct and such disciplinary action will not constitute prohibited retaliation.

# V. REPORTING

## A. Making a Report

### 1. Employees

With the exception of those employees who are Confidential Resources identified in Section V.F below, all University employees (including administrators, faculty, staff, and student employees) have a duty to report sexual misconduct that they observe or otherwise learn about. Employees should make their report promptly to the Title IX Coordinator, the Deputy Title IX Coordinator, or the University Police Department. The

University may take disciplinary action against an employee who fails to report sexual misconduct as required by this policy, up to and including termination.

2. Students and Non-Employee Members of the University Community

Students and non-employee members of the University Community who wish to report sexual misconduct should file a complaint with the Title IX Coordinator, the Deputy Title IX Coordinator, and/or the University Policy Department. Students and non-employee members of the University Community should be aware that all employees at the University, other than the Confidential Resources identified in Section V.F below, have an obligation to report sexual misconduct that they observe or otherwise learn about.

3. Right to Make a Report to the U.S. Department of Education

In addition to the reporting options under this policy, any person may make a report of sexual misconduct to the U.S. Department of Education's Office for Civil Rights, at the contact information listed in Section III.

**B. Conduct that Constitutes a Crime**

In addition to making a report under this policy, the University encourages any person who believes he or she is the victim of a crime to make a report to law enforcement. The contact information for the University's Police Department is:

Phone: 911 (emergency)  
(417) 623-3131 (Report a crime)  
(417) 626-2222 (Service calls)  
Email: [UPD@mssu.edu](mailto:UPD@mssu.edu) or [kennedy-k@mssu.edu](mailto:kennedy-k@mssu.edu)  
Location: Lower campus area between Ummel and Plaster Halls on Mission Hills Drive

If requested, the University will assist an alleged victim in notifying the appropriate law enforcement authorities. If a person believes he or she is in imminent danger, the person should dial 911. Unless there is a health or safety emergency, articulable threat to members of the University Community, or a state law requiring reporting (such as in the case of child abuse) the University will not contact outside law enforcement without the alleged victim's permission.

**C. Special Advice for Individuals Reporting Sexual Violence, Domestic Violence, and Dating Violence**

For those who believe that they are victims of sexual violence, domestic violence, or dating violence, the University recommends the following:

- Get to a safe place as soon as possible.

- Try to preserve all physical evidence of the crime—avoid bathing, using the toilet, rinsing one’s mouth or changing clothes. If it is necessary, put all clothing that was worn at the time of the incident in a paper bag, not a plastic one.
- Contact University police by calling (417) 626-2222 if the incident occurred on campus or the local police by calling 911 if the incident occurred off campus.
- Get medical attention – all medical injuries are not immediately apparent. This is also necessary to collect evidence in case the individual decides to press charges. Local hospitals (identified in Section V.F of this policy) have evidence collection kits necessary for criminal prosecution should the victim wish to pursue charges.
- Contact a trusted person, such as a friend or family member for support.
- Contact the University’s Counseling Department (417-625-9324) and Willcoxon Health Center (417-625-9323) for counseling and medical services.
- Talk with a counselor who will help explain options, give information, and provide emotional support.
- Make a report to the Title IX Coordinator or the Deputy Coordinator.
- Explore this policy and avenues for resolution under the Complaint Resolution Procedures.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc., rather than evidence of physical contact and violence.

#### **D. Limited Amnesty**

The University recognizes that an individual who has been drinking alcohol or using drugs may be hesitant to report sexual misconduct arising from the same setting where the alcohol or drugs were consumed. To encourage reporting, the University will not take disciplinary action for drug or alcohol use against an individual who makes a good faith report of sexual misconduct, either as the reporter/complainant or as a witness, provided that these conduct violations did not and do not place the health or safety of any other person at risk.

The University’s commitment to amnesty in these situations does not prevent action by local police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

#### **E. Timing of Reports**

The University encourages persons to make complaints of sexual misconduct as soon as possible because late reporting may limit the University’s ability to investigate and respond to the conduct complained of.

## **F. Confidential Resources**

The University has designated a limited number of employees as Confidential Resources. These Confidential Resources do not have a duty to report sexual misconduct to the Title IX Coordinator and will not disclose identifying information provided to them in their professional capacities unless a specific law requires them to do so, such as laws requiring the reporting of child abuse. However, Confidential Resources have received training about the policy and may, if they deem it appropriate, encourage patients and clients to report sexual misconduct to the University and/or law enforcement on a voluntary basis.

The University's Confidential Resources are:

On-Campus Counseling (confidential resource)

Counseling Services

Office: Hearnes Hall 314

Reception Desk: 417-625-9324

Fax: 417-659-3726

Email: acts@mssu.edu

On-Campus Medical Services

Willcoxon Health Center

Billingsly Student Center

Phone: 417-625-9323

Fax: 417-659-4376

In addition, there are a number of hospitals and support services in the greater Joplin region that can provide counseling and advice to victims of sexual misconduct. These entities will not disclose information that is provided to them without the victim's consent unless a specific law requires them to do so.

These third-party resources include:

Mercy Hospital Joplin

100 Mercy Way, Joplin, Missouri 64804

(417) 556-3729

Freeman Hospital West  
1102 W 32nd St, Joplin, Missouri 64804  
(417) 347-1111

Freeman Hospital East  
932 E 34th St, Joplin, Missouri 64804  
(417) 347-1111

Landmark Hospital  
2040 W 32nd St, Joplin, Missouri 64804  
(417) 627-1300

Joplin Lafayette House: 1-800-416-1772  
1809 S Connor Ave  
Joplin, MO 64804

National Domestic Violence Hotline: 1-800-799-7233

National Sexual Assault Hotline: 1-800-656-4673

## **VI. EVALUATION OF THE REPORT AND ENGAGEMENT WITH THE ALLEGED VICTIM**

### **A. Initial Evaluation of the Report**

After the University receives a report of sexual misconduct, the Title IX Coordinator or designee will conduct an initial evaluation of the report to determine whether the conduct alleged, if true, could constitute a violation of this policy.

If the conduct as alleged does not constitute a violation of the policy, the Title IX Coordinator or designee may refer the report to be addressed under any other applicable University policy. However, the report will not be further addressed under this policy or the Complaint Resolution Procedures.

If the Title IX Coordinator or designee determines the conduct alleged, if true, could constitute a violation of this policy, the Title IX Coordinator or designee will attempt to make contact with the alleged victim. If the reporting party is not also the alleged victim, the reporting party may have no further involvement in the process.

### **B. Contact With the Alleged Victim**

The Title IX Coordinator or designee (often a trained victim advocate) will make contact with the alleged victim of the conduct reported. The Title IX Coordinator or designee will advise the alleged victim of his or her options under the policy and otherwise, including:

- Voluntarily contacting parents or a relative.
- Seeking legal advice.
- Seeking personal counseling through the University's counseling center.
- Contacting law enforcement with the University's assistance.
- Requesting an investigation and making a complaint under the Complaint Resolution Procedures.
- Requesting that no further action be taken and that the potential victim's identity not be disclosed.
- Seeking accommodations, such as housing accommodations or academic accommodations.

The Title IX Coordinator or designee will give the alleged victim a written document that outlines these options and provides contact information for local resources and support organizations.

### **C. Decision On How To Proceed**

In the event the alleged victim requests an investigation and wishes to make a complaint under the Complaint Resolution Procedures, the Title IX Coordinator or designee will appoint an Investigating Officer (as defined in the Complaint Resolution Procedures) and the report will be investigated and resolved in accordance with the Complaint Resolution Procedures. The University will make all reasonable and appropriate efforts to preserve an alleged victim's privacy and will conduct the investigation and resolution with discretion. However, the University cannot guarantee complete confidentiality due to state and federal laws governing the reporting of certain types of misconduct as well as the necessity for information to be disclosed to the potential perpetrator and others involved in the investigation.

If the alleged victim wishes to pursue a complaint under the Complaint Resolution Procedures, the alleged victim must reduce the complaint to writing or describe the complaint so that the Title IX Coordinator or designee can document it in writing. The written complaint shall include the following:

- The name of the alleged victim.
- The name of the alleged perpetrator.
- The details of the alleged sexual misconduct.
- The names of any persons believed by the alleged victim to have relevant information.
- Any other information the alleged victim believes is pertinent to the alleged sexual misconduct.

The written complaint will be provided to the appropriate Investigating Officer as specified in the Complaint Resolution Procedures.



If the alleged victim requests that the report not be investigated and/or is unwilling to be a complainant under the Complaint Resolution Procedures, the University will take all reasonable steps to address the report consistent with the request. However, the University's ability to address the reported misconduct may be limited.

The University reserves the right to initiate or continue proceedings under the Complaint Resolution Procedures, despite an alleged victim's wishes to the contrary, when, considering the totality of circumstances, a report involves serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University Community. In such a case, the University will act as a complainant under the Complaint Resolution Procedures. The Title IX Coordinator or designee is responsible for determining whether the University will act as a complainant under the Complaint Resolution Procedures.

In the event that an alleged victim initiates a complaint under the Complaint Resolution Procedures, but then elects to withdraw the complaint, the University may also proceed with resolution of the complaint to provide at its discretion.

#### **D. Interim Measures**

After receiving a report, and during any investigation under the Complaint Resolution Procedures, the Title IX Coordinator or designee will impose any necessary interim measures necessary to protect the alleged victim from further sexual misconduct, to separate the parties, to protect witnesses, and/or to support the parties pending resolution. These interim measures may include: provision of counseling or support services; reasonable changes in academic, living, transportation, or work arrangements; and entry of a "no contact" order or similar order to ensure separation of the parties. Either the alleged victim or the alleged perpetrator may request interim measures.

In cases where there is reasonable cause to believe the alleged perpetrator poses a continuing threat to the alleged victim or others, the University may issue full or partial suspension, on an interim basis, until the matter is resolved through the Complaint Resolution Procedures. However, except in an emergency situation, an alleged perpetrator will have the opportunity to meet with the Title IX Coordinator or designee and be heard prior to such interim suspension being imposed.

If an alleged victim has obtained an ex parte order of protection, full order of protection, or any other temporary restraining order or no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the alleged victim should provide such information to the Title IX Coordinator or Deputy Title IX Coordinator so that the University can take all reasonable and legal action to implement the order with respect to those persons and areas the University controls.

Interim measures may be requested by any party at any time. Any person who believes interim measures are being violated should report the alleged violation in the same manner for reporting sexual misconduct as set forth in Section V.

Interim measures are temporary measures taken to ensure equal and continuing access to its programs and activities and to ensure the safety of the University Community. They do not constitute a finding of guilt and may be removed if a complaint is found not to be substantiated.

## **VII. INVESTIGATION AND RESOLUTION**

### **A. Complaint Resolution Procedures**

All complaints of sexual misconduct will be investigated and resolved pursuant to the Complaint Resolution Procedures, which, along with this policy, are the exclusive means of resolving complaints of sexual misconduct. To the extent this policy and/or the Complaint Resolution Procedures conflict with any other University policy, this policy and/or the Complaint Resolution Procedures, as the case may be, will control. Under the Complaint Resolution Procedures, the party making a complaint is referred to as the “complainant” and the person accused of misconduct is referred to as the “respondent.”

### **B. Support Persons**

At each stage of the Complaint Resolution Procedures (interviews, meetings, hearings, etc.), the complainant and respondent may be accompanied by a support person of their choice. The support person’s role is to provide support and private counsel to the party. The support person will not be permitted to present information, argue, or actively participate in the proceedings and is expected to be discreet with the information he or she receives during the process. The University reserves the right to dismiss a support person who fails to follow this policy and applicable provisions of the Complaint Resolution Procedures, in which case the party will be allowed to select a different support person.

An individual who desires to have a support person/advisor but cannot find a support/person advisor should contact the Title IX Coordinator or Deputy Title IX Coordinator for assistance in doing so.

### **C. General Principles Applicable to the Investigation and Resolution Process**

In conducting its investigation and resolution under the Complaint Resolution Procedures, the University will:

- Make reasonable and appropriate efforts to preserve the privacy of the parties involved while recognizing that absolute confidentiality is not possible.
- Provide equal information to both parties about the investigation and resolution process.
- Conduct a thorough, fair, and impartial investigation that provides the parties an equal opportunity to present information and equivalent procedural safeguards.

- Allow the parties to be accompanied to all meetings and hearings by a support person of their choice.
- Keep the parties apprised of the progress of the investigation and anticipated time to resolution.
- Provide the parties an equal opportunity to meet with the Investigating Officer and to be present and testify (if applicable) at any hearing required by the Complaint Resolution Procedures, though not during the deliberative process.
- Provide the parties an equal opportunity to comment on the information developed during the investigation.
- Move promptly to conduct the investigation and complete the resolution in a timely manner.
- Avoid conflicts of interest that could call into question the integrity of the process.
- Provide simultaneous written notice to the parties of the outcome of a complaint and the outcome of any appeal.
- If a complaint of sexual misconduct is substantiated, take appropriate corrective, disciplinary, and remedial action to prevent the recurrence of the conduct and correct is discriminatory effects.

#### **D. Sharing of Information**

As a general rule, the University will share information about the complaint, and information received during the investigation, only with those persons who have a need to know and those whose participation is necessary to ensure a full and fair investigation and resolution under this policy and the Complaint Resolution Procedures. However, once a report is made to anyone other than a Confidential Resource, absolute confidentiality cannot be guaranteed. Further, while the outcome of a particular complaint and any related discipline and remedial steps will generally be shared only with the parties, the University reserves the right to share the outcome of a particular complaint more broadly, to the extent such disclosure is permitted by applicable laws, including the Family Educational Rights and Privacy Act (FERPA) and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended by the Campus SaVE Act.

### **VIII. EDUCATION**

Because the University recognizes that the prevention of sexual misconduct is important, it offers a variety of educational programming, including primary prevention and awareness training for new students and new employees and ongoing awareness programs for all members of the University Community. Information on specific training programs, as well as a calendar of upcoming trainings, is available from the Title IX Coordinator and posted on the University's website.

**IX. ANNUAL REVIEW**

This policy is maintained by the University's Title IX Coordinator. The Title IX Coordinator will review this policy at least bi-annually, with the assistance of other administrators and staff, as appropriate. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the Complaint Resolution Procedures. The review will incorporate an aggregate view of reports, resolution, and climate.

**X. DISTRIBUTION**

This policy will be disseminated widely to the University Community through email communication, the University's website, inclusion in orientation programs for new employees and new students, and through other appropriate channels of communication.

# **SEXUAL MISCONDUCT COMPLAINT RESOLUTION PROCEDURES**

## **I. GENERAL PRINCIPLES**

### **A. Applicability**

These Complaint Resolution Procedures apply to the resolution of all complaints under the Sexual Misconduct Policy. They apply to the resolution of complaints against all members of the University Community, and they are the exclusive means of resolving complaints of sexual misconduct.

### **B. Administration**

For purposes of these Complaint Resolution Procedures, “Investigating Officer” means the individual(s) designated by the Title IX Coordinator to investigate a particular complaint and administer relevant provisions of these Complaint Resolution Procedures. The Investigating Officer may consult with other University administrators and counsel as needed. The Investigating Officer may be a third-party investigator or attorney retained for that purpose by the University.

### **C. Promptness, Fairness and Impartiality**

These procedures provide for prompt, fair, and impartial investigations and resolutions. All University employees involved in the investigation and resolution process shall discharge their obligations under these Complaint Resolution Procedures fairly and impartially. If an involved University employee determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, another suitable individual will be designated by the Title IX Coordinator to fill the role.

### **D. Training**

These procedures will be implemented by University employees who receive annual training on the issues related to sexual misconduct and how to conduct an investigation that protects the safety of victims and promotes accountability.

### **E. Participation in Investigations**

All members of the University Community are encouraged and expected to fully cooperate with any investigation and resolution under these Complaint Resolution Procedures. University employees who fail to cooperate and/or participate will face discipline, up to and including termination. In the event an alleged victim refuses to participate under these Complaint Resolution Procedures, the University may proceed as a complainant under the circumstances specified in Section VI.C of the Sexual Misconduct Policy. In the event a respondent refuses to participate, the Complaint

Resolution Procedures will be completed despite the Respondent's lack of participation and may result in a finding of misconduct *in absentia*.

## **II. TIMING, NOTIFICATION, AND INITIATION OF PROCESS**

### **A. Timing of Investigation and Resolution**

The University will endeavor to conclude its investigation and resolution of the complaint in a timely manner. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Investigating Officer in writing explaining how much additional time is needed and why it is needed. The Investigating Officer shall respond to any such request within three (3) business days.

Some instances of sexual misconduct may also constitute criminal conduct. In the case where alleged criminal conduct has also been reported to law enforcement, the University may temporarily delay its investigation of the complaint where necessary to avoid interfering with law enforcement. However, the pendency of a criminal investigation does not serve as a substitute for these procedures, and the investigation and resolution process will commence promptly once interference is no longer a concern. In addition, because the University's process is separate and distinct from any criminal prosecution, the University's determination will not be held in abeyance due to the pendency of a criminal trial.

### **B. Complaints Involving Multiple Parties**

In most cases, a complaint will involve a single complainant and a single respondent. To the extent there are multiple complainants making complaints against a single respondent, or a single complainant making complaints against multiple respondents, each complaint will be addressed separately under this Complaint Resolution Procedures unless the complaints arise from the same transaction of facts.

To the extent multiple complaints arise from the same transaction of facts, the Investigating Officer, in consultation with the Title IX Coordinator, may merge the complaints into a single investigation and resolution process.

Similarly, where the respondent makes a reciprocal allegation of sexual misconduct or where the complainant later makes additional allegations that relate to the original complaint, the Investigating Officer, in consultation with the Title IX Coordinator, may combine all related and relevant allegations of sexual misconduct into one investigation and resolution process.

**C. Notification to the Respondent**

Once a complaint is received by the Investigating Officer, the Investigating Officer will promptly notify the respondent and provide the respondent with the opportunity to review a copy of the written complaint. Written notice to the Respondent will include the identities of the parties involved, the specific provisions of the Sexual Misconduct Policy allegedly violated, and the alleged conduct, including information about the date and location of the alleged incident.

**D. Selection of Process**

The Investigating Officer will communicate with each party, separately, to discuss the pertinent avenues for resolution as set forth below. Considering the parties' wishes and other circumstances, the Investigating Officer will then determine whether the complaint will be resolved through informal or formal process. The Investigating Officer will then notify the parties of the process to be used.

**III. INFORMAL RESOLUTION**

**A. Nature of Informal Resolution**

Informal resolution is a process by which the Investigating Officer, working alone or in concert with other appropriate University administrators (such as a supervisor if the parties are employees), attempts to resolve a complaint to the mutual satisfaction of both the complainant and respondent. Informal resolution may include, but is not limited to, mediation, agreed separation of the parties, referral of the parties to their respective counseling programs, agreed upon educational or training programs for one or more of the parties, the agreement of a party to apologize for their conduct, and other agreed remedial measures, which may include agreed upon forms of discipline. Although informal resolution may involve some investigation by the Investigating Officer in order to understand the background of the complaint, informal resolution is not intended to reach a formal determination as to whether or not sexual misconduct occurred, unless the respondent admits to the conduct at issue.

**B. When Informal Resolution May Be Used**

Informal resolution is intended to resolve complaints quickly and collaboratively. However, not all complaints are amenable to informal resolution. The Investigating Officer may determine that informal resolution is not appropriate in some circumstances, such as where informal resolution has failed between two parties in the past, the resolution sought by one party is of a type that cannot be achieved through informal resolution, where the conduct is particularly serious, or where the respondent is accused of a pattern of misconduct.

Both parties must agree to use informal resolution. If either party does not wish to use informal resolution, formal resolution will be used. Both parties have the right to

end informal resolution at any time and insist upon formal resolution. Similarly, if the Investigating Officer determines that efforts at informal resolution have been unsuccessful and have no prospect for success, the Investigating Officer may convert the matter to formal resolution, irrespective of the parties' wishes.

**C. Documentation of Informal Resolution**

If the parties reach agreement on an informal resolution, the Investigating Officer, in consultation with the Title IX Coordinator and other appropriate University administrators, will review the resolution and may reject it, approve it, or require modifications prior to approval. In the event the Investigating Officer approves the resolution, the Investigating Officer will prepare a written memorandum setting forth the terms of the resolution. The Investigating Officer will present the written memorandum to the parties for their review and signature. The Investigating Officer will then provide the parties with simultaneous written notification that the case has been resolved pursuant to informal resolution. The Investigating Officer may transmit a copy of the written memorandum to other University administrators or employees whose involvement is necessary to effectuate the resolution and/or for inclusion in appropriate personnel files.

**D. Monitoring of Implementation**

In the event the terms of an informal resolution require future action or inaction, the Investigating Officer may monitor the implementation of the informal resolution and maintain jurisdiction over a particular complaint until the terms of the informal resolution are satisfied. In the event the terms of the informal resolution are not satisfied, the Investigating Officer, after consulting with the Title IX Coordinator, may reactivate the complaint and immediately commence its resolution under the formal process.

**E. No Right of Appeal**

Because it is collaborative and must be agreed to by both parties, there is no right to appeal the outcome of an informal resolution.

**IV. FORMAL RESOLUTION**

**A. Nature of Formal Resolution**

Formal resolution is a process by which a formal determination is made as to whether sexual misconduct occurred. If a finding is made that sexual misconduct occurred, formal resolution will also result in a decision regarding disciplinary action to be taken against the perpetrator, as well as remedial measures that may be necessary to remedy the effect of the sexual misconduct on the victim. Unlike informal resolution, formal resolution involves an in-depth investigation and determination of facts under a preponderance of the evidence standard. The formal resolution process is the same regardless of whether the alleged perpetrator is a student, faculty member, or non-faculty



employee/other member of the University Community. The appeal processes, however, differ depending on the identity of the alleged perpetrator.

**B. Rules of Evidence**

Formal rules of evidence do not apply in any of the formal resolution processes specified below. Nonetheless, evidence that is irrelevant or whose prejudicial effect substantially outweighs its probative value may be excluded from consideration. A complainant's irrelevant sexual history will be excluded from consideration.

**C. Timing of Investigation**

The Investigating Officer will conduct investigations in a way that facilitates the resolution of complaints in a timely manner. The timing of investigation activities may be impacted by the unavailability of parties or witnesses, scheduling conflicts, intervening breaks, prior attempts at informal resolution, the complexity of a case, and the need to avoid interference with a pending law enforcement investigation. The investigator will provide updates regarding the timeline of the investigation to the parties throughout the course of the investigation.

**D. Formal Resolution Process**

1. Investigating Officer

The Title IX Coordinator may assign a designee to serve as the Investigating Officer at his or her discretion.

2. Application of Code of Student Conduct

Where the respondent is a student, complaints of sexual misconduct shall be investigated and resolved pursuant to this Policy. Parties' right to appeal in cases in which the respondent is a student are outlined below and are consistent with the right to an appeal hearing outlined in the Code of Student Conduct.

3. Complainant

Only the alleged victim or the University, acting pursuant to Section VI.C of the Sexual Misconduct Policy, may act as a complainant. In the event the University acts as a complainant pursuant to Section VI.C of the Sexual Misconduct Policy, it will designate a specific individual (typically an administrator) to participate on its behalf.

4. Investigation

Once the case is identified for formal resolution, the Investigating Officer will conduct an investigation to gather information and statements from witnesses and other sources.

The investigation will involve interviews with the complainant, respondent and witnesses and the collection of non-testimonial information and/or materials, such as email, text messages, security camera footage, and the like. Witnesses and information and/or materials may be identified and/or submitted by the parties or independently gathered by the Investigating Officer. The Investigating Officer may decline to interview witnesses or collect information that the Investigating Officer deems irrelevant. The scope of the investigation shall be at the discretion of the Investigating Officer. Throughout the investigation, the parties will have those rights specific in Section VII of the Sexual Misconduct Policy.

The Investigating Officer will prepare a written investigation report summarizing the allegations of sexual misconduct, the scope of the investigation, the information collected, and appending any statements or summaries of statements or interviews provided. The investigation report will include findings of fact and the basis for those findings, and a determination about whether a Policy violation more likely than not occurred. If necessary, the Investigating Officer will attach an addendum with sanctions and remedial measures. Information will be redacted, as appropriate, when the information affects one party but not the other.

The Investigating Officer will provide written notices of outcome to the parties, and will enclose the investigation report and addendum, if any.

## **E. Appeals**

### **1. Appeals**

Both the complainant and respondent, have the right to appeal the finding as to whether or not sexual misconduct occurred and/or the discipline imposed. Appeal procedures differ depending on the status of the respondent.

### **2. Appeal Process – Student Respondent**

In order to appeal, the aggrieved party must submit a written statement of appeal to the Student Affairs Office within ten (10) business days of receiving the notice of outcome of the investigation. The written statement must include the ground for appeal and describe the basis for it in detail. The Student Affairs Office will provide a notice of appeal being filed to the non-appealing party.

The grounds for appeal are limited to the following:

- The discipline imposed is too severe or too lenient.
- New information, previously unavailable, would have resulted in different discipline.

- Material and prejudicial violation of procedural rights occurred that affected the determination of the discipline.

In the event the written statement of appeal fails to state a permissible ground for appeal and/or does not describe the basis for the appeal, the appeal may be summarily dismissed.

Upon receiving a valid appeal, the Student Affairs Office will prepare the matter for a Student Conduct Review Committee, per the Student Code of Conduct. The Student Conduct Review Committee will review the appeal and the investigation file. The Student Conduct Review Committee may interview the parties in order to obtain additional information, and, if applicable, will meet with the parties on an equal basis.

The Student Conduct Review Committee will resolve the appeal and will provide notice of the appeal decision to the parties. The Student Conduct Review Committee will clearly state whether the previous decision was upheld or overturned. The Student Conduct Review Committee will provide the complainant and respondent with simultaneous written notification of the outcome of the appeal no later than ten (10) business days after the written notice of appeal was filed. The decision of the Student Conduct Review Committee is final.

### 3. Appeal Process – Faculty Respondent

For purposes of these Complaint Resolution Procedures, the term “faculty” includes full and part-time University employees, who teach or carry out research, including adjunct and clinical faculty, graduate teaching assistants, graduate research assistants, and administrators with faculty status.

In order to appeal, the aggrieved party must submit a detailed written statement of appeal to the Provost/Vice President for Academic Affairs within ten (10) business days of notification of the outcome of the complaint. In the event the written statement of appeal fails to state a permissible ground for appeal and/or does not describe the basis for the appeal, the appeal may be summarily dismissed.

An appeal must be based on one or more of the following grounds:

- The discipline imposed is too severe or too lenient.
- New information, previously unavailable, would have resulted in different discipline.
- Material and prejudicial violation of procedural rights occurred that affected the determination of the discipline.

Upon receiving a valid appeal, the Provost/Vice President for Academic Affairs will, within three (3) business days, provide a copy of the written statement of appeal to the other party. Thereafter, the party so notified will have ten (10) business days to

submit a written response to the appeal to the Provost/Vice President for Academic Affairs.

The Provost/ Vice President for Academic Affairs will evaluate the written appeal and any written response. Within five (5) business days of receiving the written response (or the time for a written response expiring with no response submitted), the Provost/ Vice President for Academic Affairs will provide simultaneous written notification to the parties of the decision. The Provost/Vice President for Academic Affairs' determination of the appeal is final.

In the event an investigation under these procedures determines a tenured faculty member engaged in sexual misconduct, and termination of appointment is being considered, the procedures for termination for cause will be followed pursuant to Section II.E of the Faculty Handbook.

4. Appeal Process for Complaints Against Administrators, Non-Faculty Employees, Contractors, and Third Parties

For purposes of these Complaint Resolution Procedures, the term "Non-Faculty Employees" includes full and part-time staff employees, coaches, resident physicians, and postdoctoral fellows.

In order to appeal, the aggrieved party must submit a detailed written statement of appeal to the Vice President for Business Affairs within ten (10) business days of receiving notification of the outcome of the investigation.

An appeal must be based on one or more of the following grounds:

- The discipline imposed is too severe or too lenient.
- New information, previously unavailable, would have resulted in different discipline.
- Material and prejudicial violation of procedural rights occurred that affected the determination of the discipline.

In the event the written statement of appeal fails to state a permissible ground for appeal and/or does not describe the basis for the appeal, the appeal may be summarily dismissed.

Upon receiving a valid appeal, the Vice President for Business Affairs will, within three (3) business days, provide a copy of the written statement of appeal to the other party. Thereafter, the party so notified will have ten (10) business days to submit a written response to the appeal to the Vice President for Business Affairs.

The Vice President for Business Affairs will evaluate the written appeal and any written response. Within five (5) business days of receiving the written response (or the

time for a written response expiring with no response submitted), the Vice President for Business Affairs will provide simultaneous written notification to the parties of the Compliance Officer's decision. The Vice President for Business Affairs' determination of the appeal is final.

**F. Documentation**

Throughout all stages of the investigation, resolution, and appeal, the Investigating Officer and the Appeals Officer, as appropriate, are responsible for maintaining documentation of the investigation and appeal, including documentation of all proceedings conducted under these complaint resolution procedures, which may include written findings of fact, transcripts, and audio recordings. Upon the conclusion of an investigation, investigation files will be maintained by the Title IX Coordinator.

**V. SPECIAL PROCEDURES FOR COMPLAINTS AGAINST THE UNIVERSITY PRESIDENT**

If a complaint involves alleged sexual misconduct on the part of the University's President, the University's Board of Trustees ("Board") will designate the Investigating Officer.

The Investigating Officer will conduct an investigation to gather testimony and other information for eventual review and consideration by the Board.

The investigation will involve interviews with the complainant, respondent and witnesses and the collection of non-testimonial information and/or materials, such as email, text messages, security camera footage, and the like. Witnesses and non-testimonial information and/or materials may be identified and/or submitted by the parties or independently gathered by the Investigating Officer. The Investigating Officer may decline to interview witnesses or collect information that the Investigating Officer deems irrelevant. The scope of the investigation shall be at the discretion of the Investigating Officer.

The Investigating Officer will prepare a written report summarizing the allegations of sexual misconduct, the scope of the investigation, the information collected, and appending the written complaint, witness statements, and other information collected during the investigation. The Investigating Officer will present the written report to the Board. The complainant and respondent shall receive a copy of the written report when it is transmitted to the Board.

Throughout the investigation, the parties will have those rights set forth in Section VII of the Sexual Misconduct Policy.

After review and consideration of the report, the Board will issue a written determination, delivered simultaneously to the parties, determining whether sexual

misconduct occurred and, if so, the sanction to be imposed. If the respondent is found to have committed sexual violence, the complainant will be notified of all sanctions. If the respondent is found to have committed some form of sexual misconduct other than sexual violence, the complainant will only be notified of the sanctions that directly relate to the complainant. The Board shall separately notify the complainant, in writing, of any non-disciplinary remedial measures that will be offered for the complainant's benefit. The Board's determination shall be based on a preponderance of the evidence standard. The determination of the Board is final and not subject to appeal.

## **VI. SPECIAL PROCEDURES FOR COMPLAINTS AGAINST THE TITLE IX COORDINATOR**

If a complaint involves allegations of sexual misconduct on the part of the University's Title IX Coordinator, formal resolution will be conducted pursuant to Section IV.F of these Complaint Resolution Procedures as modified herein. The President shall designate the Investigating Officer, shall receive the Investigating Officer's report, and shall determine whether or not sexual misconduct occurred or may remand the report to the Investigating Officer for further investigation. If the President determines that sexual misconduct occurred, the President shall determine the sanctions to be imposed. The President's determination whether sexual misconduct occurred, and the President's decision regarding sanctions, are final and not subject to appeal.

In addition, the President shall assign a designate to perform all non-investigatory functions that would otherwise be performed by the Title IX Coordinator, including, but not limited to, the initial evaluation of the report, the consideration and implementation of interim measures, and the implementation of final remedial measures, if any.

## **VII. INTERSECTION WITH OTHER PROCEDURES**

These complaint resolution procedures are the exclusive means of investigating and determining complaints alleging violations of the Sexual Misconduct Response and Prevention Policy. To the extent there are any inconsistencies between these complaint resolution procedures and other University procedures for investigating and determining complaints, these complaint resolution procedures will control the resolution of complaints alleging violations of the Sexual Misconduct Response and Prevention Policy. The findings made in a determination under Section II.E (as may be modified by any subsequent appeal) are final and binding with respect to any other related University disciplinary proceedings that may be instituted thereafter.

In the event an investigation under these procedures determines a tenured faculty member engaged in sexual misconduct, and termination of appointment is being considered, the procedures for termination for cause will be followed pursuant to Section II.E of the Faculty Handbook.