



**Report Pursuant to Connecticut General Statute Section 10a-55m(f)**

**September 30, 2021**

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## **GENDER-BASED AND SEXUAL HARASSMENT POLICY**

### **Policy Statement:**

In compliance with Title IX of the Education Amendments of 1972, Goodwin University prohibits discrimination based on sex in all of its educational programs or activities. Members of the Goodwin community, guests and visitors have the right to be part of a community that is free of sexual harassment.

All members of the Goodwin community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Goodwin believes in a zero-tolerance policy for gender-based and sexual harassment. When an allegation of misconduct is brought to an appropriate administrator's attention, and a respondent is found to have violated this policy, serious sanctions may be used to deter future misconduct. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

In compliance with Title IX and the Clery Act, including the Violence Against Women Act (VAWA) Goodwin University also prohibits sexual assault, domestic violence, dating violence and stalking.

Please refer to Appendix A for the extended version of this policy.

Madison Yates is Goodwin University's designated Title IX and Equity Coordinator, and oversees compliance with Title IX and this policy, which covers all aspects of sex and gender-based harassment and discrimination. The Coordinator reports directly to the Vice President for Human Resources and is housed in the Administration department. Questions about this policy should be directed to the Title IX and Equity Coordinator. Anyone, including students, employees, guests, and visitors, wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the Goodwin University Title IX and Equity Coordinator:

Madison Yates  
Title IX and Equity Coordinator  
One Riverside Drive, 6<sup>th</sup> Floor  
East Hartford, CT 06118  
(860) 913-2141  
[myates@goodwin.edu](mailto:myates@goodwin.edu)

**Procedure Details:**

The procedures described in Appendix B of this policy govern the implementation of the Gender-based and Sexual Harassment Policy. When a violation of the policy occurs, students, faculty, staff, and visitors must have a clear mechanism for reporting violations and obtaining relief. Those in violation of the policy must also be aware of how violations will be handled.

This policy has been updated according to regulations issued by the Department of Education in May 2020. This policy is subject to change. Should the policy change, the University will typically apply the Policy in place at time of the alleged misconduct, but will adjudicate using the procedures in place at the time of the notice/complaint.

The Title IX and Equity Coordinator manages Goodwin's Title IX team and acts with independence and authority free from bias and conflicts of interest.

Members of the Title IX Team include:

Madison Yates  
Title IX and Equity Coordinator

Jean McGill  
Deputy Title IX Coordinator  
Vice President, Human Resources

Terry Antoine  
Director, Human Resources

Tyrone Black  
Vice President, Student Affairs and Dean of Students

Ashley Sciarretta  
Student Affairs Specialist/Conduct Officer

Travis Samuels  
Case Manager/Housing/EOP Specialist

Bryton Ferris  
Housing Coordinator

Richard Vibberts  
Director, Campus Safety and Security

Gerald Tomkiel  
Assistant Director, Campus Safety and Security

The members of the Title IX Team are Officials with Authority and are vetted and trained to ensure they are not biased for or against any party in a specific case or for or against complainants and/or respondents.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact Goodwin University's Vice President, Human Resources, Jean McGill at [jmcgill@goodwin.edu](mailto:jmcgill@goodwin.edu) or (860)913-2262. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to Goodwin's Vice President for Human Resources.

In addition to the Title IX Coordinator and Title IX Team, Goodwin has determined that the members of the campus community listed below hold the designation of Officials with Authority to address and correct violations of Sexual Harassment as defined by Title IX of the Education Amendments of 1972. Along with the Title IX Team, these officials are also able to accept notice or complaints on behalf of Goodwin.

Mark Scheinberg  
President

Danielle Wilken  
Provost and Dean of Faculty

Goodwin University has designated all staff and faculty as mandatory reporters who are required to report any knowledge they have that a member of the community is experiencing sexual harassment, though there are some exceptions for Confidential Resources, as described in greater detail below.

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline Number: (800) 421-3481  
Facsimile: (202) 453-6012  
Telecommunications Device for the Deaf Number: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr>

For Complaints Involving Employment, contact the U.S. Equal Opportunity Employment Commission (EEOC), Boston Area Office:

EEOC  
JFK Federal Building  
15 New Sudbury Street, Room 475  
Boston, MA 02203-0506  
Phone: (800) 669-4000  
Facsimile: (617) 565-3196  
Telecommunications Device for the Deaf Number: (800) 669-6820  
American Sign Language Video Number: (844) 234-5122

**Definitions:**

*Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

*Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment based on a protected class; or retaliation for engaging in a protected activity.

*Complaint (formal)* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that the recipient investigate the allegation.

*Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status).

*Day* means a business day when the University is in normal operation.

*Education program or activity* means locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by the Recipient.

*Final Determination:* A conclusion by the standard of proof that the alleged conduct did or did not violate policy.

*Finding:* A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a "finding of fact").

*Formal Grievance Process* means a method of formal resolution designated by the University to address conduct that falls within this policy, and which complies with the requirements of the Title IX regulations (specifically, 34 CFR §106.45). The formal grievance process is set forth in Appendix A.

*Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).

*Hearing Decision-maker or Panel* refers to those who have decision-making and sanctioning authority within the Recipient's Formal Grievance process.

*Investigator* means the person or persons charged by the University with gathering facts about an alleged violation of this Policy, assessing relevance, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

*Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

*Official with Authority (OWA)* means an employee of the University explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the Recipient.

*Parties* include the Complainant(s) and Respondent(s), collectively.

*Recipient* means Goodwin University.

*Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Goodwin's educational program.

*Respondent* means an individual who is alleged to be the perpetrator of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.

*Resolution* means the result of an informal or Formal Grievance Process.

*Mandatory Reporter* means an employee of the University who is obligated by policy to share knowledge, notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator.

*Sanction* means a consequence imposed by the University on a Respondent who is found to have violated this policy.

*Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.

*Title IX Coordinator* is at least one official designated by Goodwin University to ensure compliance with Title IX and the University's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

*Title IX Team* refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

**Offices Directly Affected by the Policy:**

Title IX and Equity Office  
Campus Safety and Security  
Student Affairs  
Human Resources

**History:**

Policy created and approved June 2013  
Policy reviewed, updated, and approved June 2014

Policy reviewed June 2015

Policy updated and approved July 2015

Policy reviewed, updated, and approved August 2016

Policy reviewed, updated, and approved August 2017

Policy reviewed and updated January 2020 and August 2020

**Effective Date:** August 14, 2020

**Responsible Office (only one):** Title IX and Equity Office and Human Resources

**Review Date:** Annually

**Appendices:**

Appendix A – Policy Against Gender-Based and Sexual Harassment

Appendix B – Procedures For addressing Claimed Violations of Gender-based and Sexual Harassment Policy

Appendix C – Statement of Rights of the Parties

Appendix D – Consensual Relationships Policy

ATIXA 2020 INTERIM MODEL SEXUAL HARASSMENT POLICIES AND PROCEDURES

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## **Appendix A – Policy Against Gender-Based and Sexual Harassment**

Goodwin University is an equal opportunity institution, fully committed to the goal of providing equal access to its educational programs, activities, and employment without discrimination on the basis of sex. This policy implements Federal and State laws, regulations, and executive orders.

The staff, faculty, student body, and administration of Goodwin University form a diverse community and The University maintains that activities, programs, and everyday interactions are enriched by acceptance of one another in an environment of positive engagement and mutual respect.

Acts of discrimination, intolerance, or harassment directed against individuals or specific groups of individuals based on sex will not be tolerated and will be addressed as described herein.

### **1. Definition of Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Connecticut regard Sexual Harassment as an unlawful discriminatory practice. Goodwin University has adopted the following definition of Sexual Harassment, consistent with state and federal law and with the unique environment of an academic community.

Sexual harassment is conduct on the basis of sex that may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved, occurs in a Goodwin University education program or activity, and satisfies one or more of the following:

- 1) Quid Pro Quo:
  - a. an employee of the University,
  - b. conditions (implicitly or explicitly) the provision of an aid, benefit, or service of the University,
  - c. on an individual's participation in unwelcome sexual conduct.
- 2) Severe and Pervasive Sexual Harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and
  - e. objectively offensive,

- f. that it effectively denies a person equal access to the Recipient's education program or activity.<sup>1</sup>
- 3) Sexual assault, defined as:
- a. Sex Offenses:
    - i) Any sexual act directed against another person,
    - ii) without the consent of the Complainant,
    - iii) including instances in which the Complainant is incapable of giving consent.
  - i) Rape
    - a. Penetration,
    - b. no matter how slight,
    - c. of the vagina or anus with any body part or object, or
    - d. oral penetration by a sex organ of another person,
    - e. without the consent of that person.
  - ii) Sodomy
    - a. Oral or anal sexual intercourse with another person,
    - b. without consent, including instances in which the Complainant is incapable of giving consent because of age<sup>2</sup> or because of temporary or permanent mental or physical incapacity.
  - iii) Sexual assault with an Object
    - a. The use of an object or instrument to penetrate,
    - b. however slightly,
    - c. the genital or anal opening of the body of another person,
    - d. without consent, including instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental incapacity.
  - iv) Fondling
    - a. The touching of the private body parts of another person (buttocks, groin, breasts),
    - b. for the purpose of sexual gratification,

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<sup>1</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances.

<sup>2</sup> The age of consent in Connecticut is 16.

- c. without consent, including instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - b. Sex Offenses, Non-forcible:
    - i) Incest
      - a. Sexual intercourse,
      - b. between persons who are related to each other,
      - c. within the degrees wherein marriage is prohibited by Connecticut state law.
    - ii) Statutory Rape:
      - a. Non-forcible sexual intercourse
      - b. with a minor more than three years younger than the actor if the younger person is at least age 13, but under age 16, with a person who is under the statutory age of consent of 16, or with a minor under age 13 if the actor is more than two years older.
- 4) Dating Violence, defined as:
  - a. violence,
  - b. committed by a person,
  - c. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
    - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - iii. Dating violence does not include acts covered under the definition of domestic violence.
- 5) Domestic Violence, defined as:
  - a. violence,
  - b. committed by a current or former spouse or intimate partner of the Complainant,
  - c. a person with whom the Complainant shares a child in common, or
  - d. a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner,<sup>3</sup> or

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<sup>3</sup> A roommate relationship does not fall within this definition unless the roommates are current or former spouses or otherwise engaged in an intimate relationship. The mere fact of cohabitation is insufficient to satisfy this definition.

- e. a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Connecticut, or
  - f. any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Connecticut.
- 6) Stalking, defined as:
- a. engaging in a course of conduct,
  - b. directed at a specific person, that
    - i. would cause a reasonable person to fear for the person's safety, or
    - ii. the safety of others; or
    - iii. suffer substantial emotional distress.
  - c. For the purposes of the definition of stalking—
    - i. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
    - ii. Reasonable person means a reasonable person in the position of the Complainant and under similar circumstances
    - iii. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

In addition to violating the University's policy, sexual assault and stalking are crimes in Connecticut and may be subject to criminal prosecution.

- 7) In addition to the forms of sexual harassment described above, the University additionally prohibits the following offenses as forms of discrimination when the act is based upon the Complainant's sex or gender identity. Whether or not these forms of sexual harassment are covered by the Title IX, these acts violate this Gender-based and Sexual Harassment Policy and are subject to the Policy.
- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
  - Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex or gender identity;
  - Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;

- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the University community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
- Bullying, defined as repeated and/or severe, aggressive behavior, likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally.

Any other conduct prohibited under any University Policy may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender identity.

## **2. Consent, Coercion, Incapacity, and Force**

### **1) Definition of Consent**

As used in the offenses above in section 1 of this Appendix, the following definitions and understandings apply:

Consent is an:

- active, and
- knowing, and
- voluntary agreement,
- by word or action,
- to engage in sexual activity.

It is the responsibility of each person to ensure that he or she has the affirmative consent of all persons engaged in the sexual activity to engage in the sexual activity and that the affirmative consent is sustained throughout the sexual activity.

Affirmative consent is not passive. Accordingly, silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in a particular sexual activity.

Consent may be withdrawn at any time during the sexual activity by any person engaged in the sexual activity, provided that the withdrawal is reasonably and clearly communicated. If consent is withdrawn, the sexual activity should cease immediately, meaning as soon as physically possible.

Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity. Similarly, previous relationships or prior consent cannot imply consent to future sexual

acts. The existence of a past or current dating or sexual relationship between the complainant and the respondent, in and of itself, shall not be determinative of a finding of affirmative consent.

In order to give effective consent, one must be at least 16, which is the age of consent in Connecticut.

Consent will be considered in context on a case-by-case basis and will be assessed based on the totality of the circumstances. Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred.

## **2) Effect of Incapacity on Consent**

A person cannot consent if they are incapacitated, meaning that they are unable to understand what is happening, or are disoriented, helpless, asleep, or unconscious, for any reason, including the influence of alcohol or other drugs,<sup>4</sup> or a temporary or permanent physical or mental health condition. A person will be considered incapacitated if, by reason of the foregoing conditions, they are unable to make rational, reasonable decisions (e.g. to understand the “who, what, when, where, why, or how” of their sexual interaction). A person subject to involuntary physical restraint will also be considered incapacitated.

Sexual activity with someone who a Respondent knew to be or, based on the circumstances, should reasonably have known to be, mentally or physically incapacitated constitutes a violation of this policy.

A Respondent’s use of alcohol or other drugs cannot excuse the failure to obtain affirmative consent from the Complainant for a sexual activity.

## **3) Relationship Between Force, Coercion, and Consent**

Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent. Similarly, sexual activity that is coerced through unreasonable pressure

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<sup>4</sup> Possession, use, and/or distribution of “date rape drugs,” including Rohypnol, Ketamine, GHB, Burundanga, etc., is prohibited, and administering these drugs to another student constitutes a violation of this policy. More information about these drugs can be found at <http://www.911rape.org/>.

is not consensual. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. A party is not required to resist the use of force or coercion, and the absence of resistance does not show that force or coercion wasn't used to obtain consent.

### **3. Notice/Complaint of Policy Violation**

All formal complaints are investigated by the University. A formal complaint is a complaint filed by a Complainant with the Title IX Coordinator alleging sexual harassment and requesting that the University investigate the allegations. To constitute a formal complaint, the complaint must be signed by the Complainant or the University's Title IX Coordinator.

A person may submit a formal complaint to the Title IX Coordinator in person, by mail, or by electronic mail at:

Madison Yates  
Title IX and Equity Coordinator  
One Riverside Drive, 6<sup>th</sup> Floor  
East Hartford, CT 06118  
[myates@goodwin.edu](mailto:myates@goodwin.edu)

A person may also submit a formal complaint of a potential policy violation using the online form found [here](#).

A person may notify Goodwin University of a potential policy violation without filing a formal complaint by contacting an Official with Authority by phone, in person, by email or by direct mail. Absent a formal complaint, the University is not obligated to initiate the grievance procedure described in Appendix B. Goodwin will, however, provide supportive measures as described below.

### **4. Supportive Measures**

Regardless of whether a formal complaint is filed, Goodwin University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged violation(s) of this policy.

Supportive measures are non-disciplinary, non-punitive individualized services offered without fee or charge to the parties to restore or preserve access to the University's education program or activity,

including measures designed to protect the safety of all parties or the University's educational environment, and/or deter violations of this policy.

The Title IX Coordinator will promptly make supportive measures available to the parties upon receiving notice of an alleged violation of this policy or a complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a formal complaint with the University either at that time or in the future, if they have not done so already.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. The University will act to ensure that supportive measures entail as minimal an academic/occupational impact on the parties as possible, and will implement measures in a way that does not unreasonably burden either party.

Supportive measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services;
- Referral to the Employee Assistance Program, if an Employee of the University;
- Referral to community-based service providers;
- Student financial aid counseling;
- Education to the institutional community or community subgroup(s);
- Altering campus housing assignment(s);
- Altering work arrangements for employees or student-employees;
- Safety planning;
- Providing campus safety escorts;
- Implementing contact limitations (including no contact directives) between the parties;
- Academic support, extensions of deadlines, or other course/program-related adjustments;
- [Timely warnings;](#)
- Class schedule modifications, withdrawals, or leaves of absence;
- Increased security and monitoring of certain areas of the campus; and/or



- Any other actions deemed appropriate by the Title IX Coordinator.

Violations of no contact directives will be referred to appropriate student or employee conduct processes for enforcement.

## **5. Emergency Removal**

The University can act to remove a student Respondent partially or entirely from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that removal is justified because the Respondent poses an immediate threat to the physical health or safety of any student or other individual.

This risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Intervention Team, also known as the student behavior response team, using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given prompt notice of the action and the opportunity to challenge the removal by meeting with the Title IX Coordinator immediately following removal.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate.

Objections to the emergency removal must be raised during the duration of the removal.

A Complainant and their advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it appropriate and consistent with any legal constraints.

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

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. These actions may include, but are not limited to: removing a

student from a residence hall, restricting a student's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

There is no appeal process for emergency removal decisions.

#### **6. Timing of investigation of formal complaints**

Upon receiving notice of a formal complaint, Goodwin University will act promptly to investigate allegations of sexual harassment. Absent extenuating circumstances, complaints typically take 60-90 business days to resolve. The University will avoid undue delays within its control.

In the event of a delay, the University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the additional time required as a result of the delay.

#### **7. Privacy**

Every effort is made by Goodwin University to preserve the privacy of reports of sexual harassment.<sup>5</sup> Goodwin will not share the identity of any individual who has made a report or complaint of sexual harassment or retaliation; any Complainant; any individual who has been reported to be the perpetrator of sexual harassment or retaliation; any Respondent; or any witness, except, as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99, to carry

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<sup>5</sup> For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of Goodwin employees who "need to know," or in other words have a legitimate educational interest in knowing information related to a complaint. All employees who are involved in the University's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the University's Student Handbook. The privacy of employee records will be protected in accordance with Human Resources policies. If a Complainant files a formal complaint, the Complainant's name and the substance of the allegations will be disclosed to the Respondent. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. Goodwin University has designated individuals who have the ability to have privileged communications as Confidential Resources.

out the purposes of Title IX, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures, or as otherwise required by law. In compliance with its obligations under Title IX, if the Complainant files a formal complaint or if the University otherwise initiates the formal grievance process, the University will disclose the name of the Complainant and the substance of the allegations to the Respondent.

Disclosure determinations will be made on a case-by-case basis. Goodwin University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Under FERPA, the University will notify parents of violations of the sexual misconduct policy that involve alcohol and or drugs if the student is under 21 years old.

Typically, only a small group of officials who the University has determined “need to know,” or in other words, have a legitimate educational interest, will be informed of the complaint, report, or notice. These may include but are not limited to: Title IX and Equity Office, Office of Student Affairs, Campus Safety and Security and the student behavior response team. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. To the extent possible, the University will attempt to limit the number of people to whom it discloses information about the alleged incident.

Goodwin University may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety emergency, or as otherwise permitted under FERPA, but will usually consult with the student first before doing so.

Confidentiality and expectations of responsible employees are addressed more specifically in section 13 of this appendix.

#### **8. Jurisdiction of Goodwin University**

Title IX applies to sexual harassment that takes place within the education programs and activities of Goodwin University. That includes conduct that takes place on the campus or conduct that takes place off-campus on property that is owned or controlled by Goodwin, in buildings that are owned or controlled by Goodwin’s recognized student organizations, or at Goodwin-sponsored events. The Respondent must be a member of Goodwin’s community in order for Title IX to apply.

While not subject to the rights, protections and procedural requirements of Title IX, sexual harassment that occurs outside a University education program or activity may nevertheless be subject to discipline under this Policy or other Goodwin policies, and the University will adjudicate such claims using the procedures set forth in Appendix B. The procedures stated in this document may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported violations of this policy (e.g., vandalism, physical abuse of another).

If the Respondent is unknown or is not a member of the Goodwin community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local law enforcement or, if the individual would like, filing a police report.

Further, even when the Respondent is not a member of the Goodwin community, supportive measures, remedies, and resources will be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, Goodwin may take other actions as appropriate to protect the Complainant against third parties who are not members of the Goodwin community, such as barring individuals from Goodwin property and/or events.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations of that institution's policies through that institution's procedures.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sexual harassment or retaliation in an externship, study abroad program or other program or setting that is not part of Goodwin University's programs or activities, where sexual harassment policies and procedures of the facilitating or host organization may give recourse to the Complainant.

## **9. Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to Goodwin University's jurisdiction and/or significant time has passed, the University's ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time including, but not limited to, the rescission or revision of this policy, is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate provided, however, that the University will investigate formal complaints to the extent that it is required to do so under the provisions of Title IX. If the respondent is no longer a student at or employed by the University, the Title IX Coordinator may, at her discretion, dismiss the complaint.

When notice/complaint is affected by significant time delay, Goodwin will typically apply the substantive policy terms in place at the time of the alleged misconduct, but will use the procedures in place at the time of notice/complaint.

#### **10. Online Gender-based or Sexual Harassment**

The policies of Goodwin are written and interpreted broadly to include online manifestations of any of the behaviors prohibited by this Policy, when those behaviors occur in or have an effect on Goodwin University's education program and activities or use Goodwin networks, technology, or equipment.

Although Goodwin may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to Goodwin, it will engage in a variety of means to address and mitigate the effects and will initiate the Title IX grievance process if the Complainant files a formal complaint and the harassment occurred in the context of a University education program or activity.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Goodwin community.

#### **11. Retaliation**

It is prohibited for Goodwin or any member of the University community to intimidate, threaten, coerce, harass, or discriminate against any individual for the purpose of interfering with any right or privilege secured by law or policy, or to retaliate against an individual who has made a report or complaint,

testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this policy.

Filing a separate complaint outside of this policy and process and within other University policies and procedures against a person engaged in protected activity, could be considered retaliatory if the charges are made for the purpose of interfering with or circumventing any right or privilege afforded within this policy and process

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Goodwin University will take appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## **12. Mandatory Reporting**

Goodwin University has designated all staff and faculty as mandatory reporters who are required to report to the Title IX Coordinator any knowledge they have that a member of the community is experiencing sexual harassment. There are, however, certain exceptions that allow confidential reporting to University officials or employees who are not mandatory reporters and who can offer confidential sharing options and advice without any obligation to report the alleged misconduct. Conversely, non-confidential resources are required to report claims of sexual harassment that they receive of sexual harassment that they observe.

If a Complainant expects University action in response to their allegations, reporting to any mandatory reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action as described in this policy when an incident is reported to them.

The following sections describe the reporting obligations of those affiliated with Goodwin University.

**a) Confidential Resources**

If a Complainant desires for the details of an incident to be kept confidential, they should speak with a Confidential Resource. On-campus counselors and off-campus rape crises resources are Confidential Resources who are expressly permitted to maintain confidentiality. On-campus counselors are available free-of-charge and can be seen on an emergency basis.

When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifying information will be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

**b) Mandatory Reporters**

With the exception of those who are designated as Confidential Resources, all employees of Goodwin are Mandatory Reporters and must promptly share with the Title IX Coordinator all known details of actual or suspected sexual harassment or retaliation disclosed to them, or observed by them, or which they otherwise have knowledge of.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice of sexual harassment that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or seek a specific response from the University. Supportive measures may be offered as the result of such disclosures without formal University action.

Failure of a mandatory reporter, as described above in this section, to report an incident of sexual harassment or retaliation of which they become aware is a violation of the University’s policy and can be subject to disciplinary action.

When a Mandatory Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the University will not be deemed on notice when a harasser is also a Mandatory Reporter unless the harasser does in fact report themselves.

Finally, a Mandatory Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are encouraged to do so.

### **13. When a Complainant Does not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state and federal law.

The Title IX Coordinator has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process. However, the Title IX Coordinator will only initiate a formal grievance process against the Complainant's wishes if it is not clearly unreasonable to do so in light of the circumstances. This determination will be made based on results of the violence risk assessment if it shows a compelling risk to health and/or safety that requires Goodwin University to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Goodwin may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the formal written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University proceeds with the formal complaint, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to



participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony, meaning that the Advisor may not testify on the Complainant's behalf. If the Complainant does not submit to cross-examination at the hearing, the decisionmaker may not consider the Complainant's statements in reaching a determination.

Note that the University's ability to remedy and respond to notice may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, Goodwin will offer supportive measures and remedies to the Complainant and the community, but will not otherwise pursue action on a formal complaint.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Goodwin, and to have the incidents investigated and properly resolved through these procedures. Please consider, however, that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties, and Goodwin may dismiss a complaint against a Respondent who is no longer affiliated with the University.

#### **14. Federal Timely Warning Obligations**

Complainants should be aware that University administrators must issue immediate, timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that a complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

#### **15. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. Disciplinary action will not be imposed, however, for allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation are serious offenses subject to discipline under Goodwin University policy.

#### **16. Amnesty for Student Complainants and Witnesses**

The University community encourages the reporting of misconduct and crimes by complainants and witnesses. Sometimes, complainants or witnesses are hesitant to report to University officials or participate in grievance processes because they fear that they themselves may be accused of certain policy violations, such as underage drinking or use of prohibited drugs at the time of the incident.

It is in the best interests of this community that as many complainants as possible choose to report to University officials, and that witnesses come forward to share what they know.

To encourage reporting, the University offers complainants and witnesses of misconduct amnesty from certain policy violations – such as underage drinking or use of prohibited drugs – that are related to the incident they are reporting.

Amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution, and may not apply if the reporting party has participated in the sexual harassment they are reporting.

Even in situations where Goodwin offers amnesty, Goodwin retains the right to refer conduct for educational follow-up.

#### **17. Federal Statistical Reporting Obligations**

Certain campus officials have a duty to report the following misconduct for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;

- c) VAWA-based crimes,<sup>6</sup> which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information will be kept confidential for federal reporting purposes, but statistical information regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) must be shared with the University Police Department for publication in the annual Campus Security Report.

This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

Mandated federal reporters, for this purpose, include: campus law enforcement, local police, coaches, athletic directors, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities.

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<sup>6</sup> VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

## **Appendix B – Procedures For addressing Claimed Violations of Gender-based and Sexual Harassment Policy**

### **1. Overview**

Goodwin University will act on any formal or informal notice/complaint of violation of the Gender-based and Sexual Harassment Policy that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures.

The procedures described below apply to all allegations of sexual harassment, misconduct, or retaliation involving students, staff, administrators, or faculty members. When dismissal of some or all allegations in a complaint is required under Title IX (as described in section 3(b) of this Appendix), the complaint will nevertheless proceed under the grievance process described herein, provided, however, that the parties will receive notice of which allegations are not subject to Title IX.

The procedures stated in this document may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported violations of the Gender-Based and Sexual Harassment Policy (e.g., vandalism, physical abuse of another).

All other allegations of misconduct unrelated to incidents covered by the Gender-based and Sexual Harassment Policy are addressed through procedures described in the student, faculty, and staff handbooks.

### **2. Notice/Complaint**

Upon receipt of a complaint or notice to the Title IX Coordinator or another Official with Authority of an alleged violation of the Gender-based and Sexual Harassment Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the University needs to take.

The Title IX Coordinator will initiate one or more of the below responses:

- 1) Offer supportive measures because the Complainant does not wish to file a formal complaint or the University does not have jurisdiction to initiate the formal grievance process; and/or
- 2) An informal resolution upon submission of a formal complaint and at the discretion of the University and both parties consent in writing, provided however, that informal resolution is not available for allegations that an employee sexually assaulted a student; and/or

- 3) A Formal Grievance Process including an investigation and a hearing (upon Complainant's submission of a formal complaint or the Title IX coordinator signing a formal complaint).

Goodwin University uses the Formal Grievance Process to determine whether or not the Gender-based and Sexual Harassment Policy has been violated. If Goodwin determines that the Policy has been violated, it will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, or their effects.

### **3. Initial Assessment**

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in a prompt initial assessment. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them in doing so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety or the Title IX Coordinator otherwise determines, in their discretion, that the circumstances warrant the filing of a complaint and it is not clearly unreasonable to do so.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- If a formal complaint has been filed, the Title IX Coordinator works with the Complainant and Respondent to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine if a supportive and remedial response is preferred, or if the Complainant prefers to file a formal complaint. If the Complainant files a formal complaint, the Title IX Coordinator will work with both parties to determine whether informal resolution may be appropriate. Unless both parties agree to an informal resolution option, a formal investigation and grievance process will be followed.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements as

appropriate. No Formal Grievance Process is initiated unless the Title IX Coordinator determines that it is appropriate to do so, though the Complainant can elect to initiate one later, if desired.

- If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available and seeks to determine if the Respondent is also willing to engage in informal resolution. The informal resolution process may not be initiated, however, absent the voluntary written consent of both parties.
- If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the Title IX's definition of sexual harassment (Section 1, subsections (1)-(6) of the Policy Against Gender-based and Sexual Harassment) and within Goodwin University's jurisdiction (Section 8 of the Policy Against Gender-based and Sexual Harassment):
  - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process.
  - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will "dismiss" that aspect of the complaint, if any) and assesses which other policies may apply. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit the University's authority to address a complaint under University policies with an appropriate process and remedies, including those outlined in this policy.

**a. Violence Risk Assessment**

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the student behavior response team as part of the initial assessment. A VRA can aid in making critical and/or required determinations, including, but not limited to:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;

- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors toward a child or young person;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

A VRA is a broad term for a process used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other student behavior response team members.

A VRA authorized by the Title IX Coordinator should occur in collaboration with the student behavior response team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

**b. Dismissal (Mandatory and Discretionary)<sup>7</sup>**

The University must dismiss a formal complaint under Title IX if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined under Title IX (*see* Appendix A, Section 1), even if proved; and/or

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<sup>7</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

- 2) The conduct did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University did not have control of the Respondent (i.e. the Respondent was not a member of the University Community); and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of Goodwin University.<sup>8</sup>

The University may dismiss a formal complaint under Title IX or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by Goodwin University; or
- 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, Goodwin will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal defined in section 37 of this Appendix B of the Policy. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

The dismissal of one or more allegations does not prevent the University from pursuing the remaining allegations under the Grievance Process provided herein. Additionally, dismissal of a formal complaint or allegations under Title IX does not prevent the University, at its discretion, from using this Grievance Process or imposing discipline under this Policy or under the process and disciplinary terms of any other University Policy.

#### **4. Counterclaims**

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<sup>8</sup> Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable.



The University permits the filing of counterclaims but uses an initial assessment, as described above, to assess whether the allegations in the counterclaim are made in good faith. Goodwin University is obligated to ensure that the grievance process is not abused for retaliatory purposes. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy. If the University determines that the counterclaims are made for the purpose of retaliation, they will be dismissed.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures described in this Policy. Counterclaims may be investigated concurrently as part of the investigation of the allegations in the initial complaint or investigated after the investigation of the initial complaint is completed, at the discretion of the Title IX Coordinator, using the grievance procedures in this Policy.

## **5. Right to an Advisor**

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the grievance and resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>9</sup> If a party does not have an Advisor present at the live hearing, the University will provide an Advisor free of charge to conduct cross-examination on behalf of the party.

It is recommended that an advisor not be someone who will also be a witness in the matter. Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be considered by the hearing Decision-maker(s) for purposes of making credibility determinations. The Decision-maker may require the appointment of a different Advisor.

### **a. Who Can Serve as an Advisor**

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<sup>9</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions, or any other conflict of interest that would preclude the person from acting as the party's advisor.

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with throughout the resolution process. The parties may choose Advisors from inside or outside of the Goodwin community.

The Title IX Coordinator will also offer to assign an Advisor for any party if the party so chooses. If a party chooses an Advisor from the pool available from the University, the Advisor will be trained by Goodwin and will be familiar with the University's resolution process. If a party does not have an Advisor for the live hearing, the University will provide an Advisor to conduct cross-examination on behalf of the party.

If a party chooses an Advisor from outside the pool of those identified by the University, the Advisor may not have been trained by Goodwin and may not be familiar with University policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing, but must have an Advisor present at the hearing to conduct cross-examination.

#### **b. Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The University cannot guarantee equal Advisory rights, and does not guarantee the right to an attorney-Advisor. This means that if one party selects an Advisor who is an attorney, but the other party does not retain or cannot afford an attorney, Goodwin University is not obligated to provide an attorney to serve as an Advisor.

#### **c. Advisors in Hearings/Goodwin-Appointed Advisors**

The live hearing must provide the opportunity for cross-examination of parties and witnesses. However, the parties are not permitted to directly question each other or any witnesses. Rather, cross-examination must be conducted by the parties' Advisors. If a party does not have an Advisor for a hearing, Goodwin University will appoint an Advisor for the limited purpose of conducting examination of the other party and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, Goodwin University will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. The Decision-maker(s) may also conduct questioning of the parties and witnesses during the hearing. While a party may decline to submit to cross-examination, the Decision-maker may not consider any statements by the party that were not subject to cross-examination.

**d. Pre-Interview Meetings**

Advisors may request to meet with the administrative officials who oversee Title IX proceedings, in advance of any interviews or meetings with the students, in order to allow Advisors to clarify and understand their role and Goodwin's policies and procedures.

**e. Advisor Violations of Goodwin Policy**

All Advisors are subject to the same Goodwin policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University officials in a meeting or interview except to ask or respond to procedural questions, provided, however, that the parties may consult privately with their Advisors during meetings or interviews. The Advisor may not make a presentation during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during cross-examination at a hearing proceeding.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process, but may consult with their Advisor, either privately as needed, or by conferring or passing notes during any meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role, and whether another Advisor should be appointed for the rest of the proceedings.

**f. Sharing Information with the Advisor**

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

The University also provides a consent form for parties to authorize the University to share such information directly with the parties' Advisors. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before Goodwin is able to share records with an Advisor. Absent such consent, the University will not share information directly with the Advisor.

If a party requests that all communication be made through their attorney Advisor, the University may comply with that request at the discretion of the Title IX Coordinator.

**g. Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Goodwin University. Goodwin may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

**i. Expectations of an Advisor**

Goodwin University generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available provided, however, that all participants in a live hearing must be able to simultaneously see and hear each other.

**j. Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the grievance process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their

Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. If a party changes Advisors, consent to share information with the previous Advisor is terminated, and a consent form for the new Advisor must be executed. The University will not treat consent to share information with one Advisor as consent to share information with subsequent Advisors. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

The Title IX Coordinator may refer the parties to organizations that may assist them in identifying and securing an appropriate Advisor.

## **6. Resolution Process**

### **a. Informal Resolution**

Informal Resolution can include three different approaches provided, however, that informal resolution is not available for allegations that an employee sexually harassed a student:

- When the parties agree to resolve the matter through an alternate resolution mechanism;
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process;
- Negotiated Resolution by the Title IX Coordinator.

To initiate an Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator. An informal resolution process will not be initiated absent the consent of both parties. The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

Prior to implementing Informal Resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

**b. Alternate Resolution Mechanism**

Alternate Resolution is an informal mechanism by which the parties reach a mutually agreed upon resolution of an allegation. All parties and the University must consent to the use of an Alternate Resolution mechanism.

In determining whether alternate resolution is appropriate, the Title IX Coordinator will consider the totality of the circumstances, including results of a VRA, if any, whether emergency removal is needed, whether the allegations of the complaint and goals of the parties are suitable for Alternative Resolution, the availability of a skilled alternative resolution facilitator, and the parties' interest, commitment, and capability of participating in Alternate Resolution.

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

**c. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be commenced with the consent of the University and both parties.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and Goodwin University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator will implement the accepted finding that the Respondent is in violation of Goodwin policy and will implement agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume.

When a resolution is accomplished, the appropriate sanction or responsive actions will be promptly implemented in order to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

**d. Negotiated Resolution**

The Title IX Coordinator, with the written consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University. Negotiated Resolutions are not appealable.

**e. Privacy of Resolution Process**

Resolution proceedings are private. With the exception of the parties, all persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with Goodwin University policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below. Goodwin encourages, but does not require, parties to discuss any sharing of information with their Advisors before doing so.

**7. Grievance Process Pool**

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees and are listed on the Goodwin University website.

The University also retains the right to and has the sole discretion to determine when to assign an external (third-party) grievance process pool member(s). The assigned member(s) will be trained as described below.

The list of Pool members are posted on the University website.

**a. Pool Member Roles**

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator provided, however, that the same pool member may not serve as an Advisor, Investigator, and Decision-maker, or any combination thereof, in the same grievance process:

- To act as an Advisor to the parties
- To serve in a facilitation role in Informal Resolution or Alternate Resolution if

appropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices)

- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no substantive or decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker

#### **b. Pool Member Appointment**

The Title IX Coordinator, in consultation with the Vice President for Human Resources, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed in section a., above, in different cases, the University can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

#### **c. Pool Member Training**

The Pool members receive annual training jointly and/or based on their respective roles. This training may include, but is not limited to:

- The scope of the University's Sexual Harassment Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements



- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The standard of proof to be used in decision-making
- The definitions of all offenses
- How to apply definitions used by the University with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment and/or retaliation allegations
- Recordkeeping

Specific training is also provided for Appeal Decision-makers, intake personnel, Advisors (to the extent that they are University employees), and Chairs. All Pool members are required to attend these trainings annually.

The materials used to train all members of the Pool are publicly posted on the University's website.

#### **8. Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who will be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of the allegations,
- The identity of the involved parties (if known),
- The precise misconduct allegedly constituting sexual harassment,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until a determination of responsibility is made at the conclusion of the grievance process,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the University's policy on retaliation,
- Information about the privacy of the process,

- Information about the right of each party to have an Advisor of their choosing, including the right to a University-appointed Advisor,
- A statement informing the parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Details on how the party may request disability accommodations during the grievance process,
- The name(s) of the Investigator(s), along with a process to raise, in advance of the interview process, to the Title IX Coordinator any conflict of interest or bias that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges. If the University intends to investigate allegations not included in the original NOIA, additional notice will be provided prior to investigating those new allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official University records, or emailed to the parties' University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

## **9. Resolution Timeline**

Goodwin University will make a good faith effort to complete the resolution process in a timely fashion. Typically, the University will strive to complete the process, including any appeal, within sixty-to-ninety (60-90) business days. That time period can be extended for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## **10. Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

The University also retains the right and has the sole discretion to determine when to assign the investigation to an external (third-party) grievance process pool member(s). The assigned member(s) will have the requisite training and relevant experience.

#### **11. Ensuring Impartiality**

The parties are entitled to a fair and impartial resolution process. Accordingly, any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), Hearing Facilitator, and Decision-maker(s) may neither have a conflict of interest or bias for or against a specific party, or for or against Complainants or Respondents generally. The Investigator and Decision-maker will be separate individuals.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, the person will be removed from their assignment and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the University's Vice President for Human Resources.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation (inculpatory evidence) and evidence that supports that the Respondent did not engage in a policy violation (exculpatory evidence). Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined at the conclusion of the grievance process to be responsible for a policy violation based on a preponderance of the evidence standard.

#### **12. Investigation Timeline**

The University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation, including any delays.

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may require additional time, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

### **13. Delays in the Investigation Process and Interactions with Law Enforcement**

In certain circumstances, an investigation may be interrupted or delayed. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The University will communicate in writing to the parties the anticipated duration of the delay and the reason and provide the parties with status updates as necessary. The University will promptly resume its investigation and resolution process as soon as is feasible. During such a delay, Goodwin will implement supportive measures as deemed appropriate.

University action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced. Accordingly, a decision not to pursue criminal charges, dropping of charges, or a verdict of not guilty does not require the University to end the grievance process and does not mandate a finding of not responsible.

### **14. Steps in the Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with the relevant parties and witnesses; review of available, relevant evidence; and review of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and issues/facts to be investigated, to provide evidence, to offer expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, though not necessarily in this order:

- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended if there are any additional or dismissed allegations
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, location, participants, and purpose of any investigative interviews or meetings.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable or unwarranted delay
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence, both inculpatory and exculpatory. Appendices including relevant physical or documentary evidence will be included.

- Gather, assess, evaluate, and summarize evidence, but make no conclusions, engage in no policy analysis, made no credibility determinations, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the alleged misconduct, including evidence upon which the University does not intend to rely in reaching a determination. Each party will have ten (10) business days to review and provide written comments on the evidence and the draft report. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties and solicit additional responses
- The Investigator(s) may incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator(s) shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback on the report's compliance with the requirements of Title IX, other laws, and this Policy provided, however, that the Title IX Coordinator will not provide input concerning the merits of the allegations.
- The Investigator will incorporate any relevant feedback, and simultaneously share the final report with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any evidence directly related to the alleged misconduct that was not included in the report

#### **15. Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees of the University are expected to cooperate with and participate in the University's investigation and resolution process. Failure of such

witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline. Student witnesses and witnesses from outside the Goodwin community are expected to cooperate with University investigations.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, health considerations) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness, efficiency, or health and safety dictate a need for remote interviewing. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. If a witness submits a written statement but is not present for cross examination at a hearing, their written statement may not be used as evidence at the hearing and may not be considered by the decision-maker.

Unlike parties, witnesses are not entitled to have an Advisor participate in the process, though witnesses may consult externally with an attorney or other advisor.

#### **16. Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent in writing or on the audio or video recording to audio and/or video recording.

#### **17. The Investigative Report: Summary of Relevant Evidence**

The investigative report will fairly summarize relevant evidence collected during the investigation. Relevant evidence will not include:

- 1) incidents not directly related to the possible violation, unless they evidence a pattern relevant to the allegations at issue and/or credibility;
- 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.



### **18. Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker if one has been appointed.

The Title IX Coordinator will select an appropriate Decision-maker or Decision-makers. Allegations involving student-employees in the context of their employment will be directed to an appropriate Decision-maker depending on the context and nature of the alleged misconduct.

### **19. Hearing Decision-maker Composition**

The Title IX Coordinator will designate a single Decision-maker or a three-member panel from the Pool or will designate a trained third-party, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the three members will be appointed as Chair.

The Title IX Coordinator may elect to have an alternate from the Pool or a trained third-party sit in throughout the hearing process in the event that a substitute is needed for any reason.

The Decision-maker(s) will not have had any previous involvement with the investigation. Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator to handle administrative issues that arise during the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

### **20. Notice of Hearing**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location, participants in, and purpose of the hearing.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with notice that a party may object to any Decision-maker on the basis of conflict of interest or bias. This must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and the parties' access to the recording after the hearing.
- A statement that if a party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and any prior testimony or statements by the party or witness that is not subject to cross examination at the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Chair may decide to reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have an Advisor present to conduct cross-examination. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University will appoint one provided, however, that the University is not required to appoint an attorney-Advisor, even if the other party has an attorney-Advisor. Each party must have an Advisor present for cross-examination. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.<sup>10</sup>

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<sup>10</sup> The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination after a finding of responsibility has been made.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least five (5) business days prior to the hearing.
- Whether parties are permitted to bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term in an effort to meet the resolution timeline followed by the University. Even if the complaint cannot be resolved within the typical resolution timeline, the University will complete the resolution process as soon as reasonably possible.

#### **21. Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party may request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow live remote testimony without compromising the fairness of the hearing, provided that all participants in a live hearing must be able to simultaneously see and hear each other. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

#### **22. Pre-Hearing Preparation**

The Chair or hearing facilitator, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been interviewed first by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. If the parties and Chair do not assent to the admission of relevant evidence newly offered at the hearing, the Chair may, in the Chair's discretion, delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and the parties should make every effort to submit such disputes to the Title IX Coordinator five (5) business days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that they are biased or have a conflict of interest that interferes with an impartial hearing.

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who determines that they cannot make an objective determination must recuse themselves from the proceedings. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible to decide whether to appoint a new Decision-maker.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be provided to each party by the Chair.

### **23. Pre-Hearing Meetings**

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (through their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid the introduction of improper evidence at the hearing or provide recommendations for more appropriate phrasing of questions. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion of evidence at a pre-hearing meeting.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant.

The Chair may rule on these arguments pre-hearing and will provide those rulings to the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel or ask legal counsel to attend pre-hearing meetings.

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

#### **24. Hearing Procedures**

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged University policy violations that have occurred in concert with the sexual harassment and/or retaliation, even though those collateral allegations may not specifically fall within the Sexual Misconduct Policy.

Participants at the hearing will include the Chair, any additional panelists, the Title IX Coordinator, the hearing facilitator (if the Title IX Coordinator is not serving in this role), the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any testifying witnesses, and anyone providing authorized accommodations or assistive services. Witnesses will be dismissed following their testimony, while all other participants will remain present for the duration of the hearing.

The Chair will answer all questions concerning procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf, not through an advisor or attorney.

The Chair will allow witnesses who have relevant information to appear only at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and the witnesses will then be excused.

#### **25. Evidentiary Considerations in the Hearing**

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider:

- 1) incidents not relevant to the possible violation, unless they evidence a pattern relevant to the allegations at issue and/or credibility;
- 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

After post-hearing deliberation, the Decision-maker will render a determination based on the preponderance of the evidence standard, i.e., whether it is more likely than not that the Respondent violated the Policy as alleged.

With respect to sanctions, previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction after a determination of responsibility, assuming the University uses a progressive discipline system. With the exception of a history of sexual harassment, which may be considered as described above, this information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for consideration by the Decision-maker(s) at the sanction stage of the process after a determination of responsibility has been made.

## **26. Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or to each Complainant to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

## **27. The Order of the Hearing – Introductions and Explanation of Procedure**

The Chair will explain the procedures and introduce the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of interest, though the parties should make every effort to submit such challenges at least two (2) business days in advance of the hearing. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

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

#### **28. Investigator Presents Final Investigative Report**

The Investigator(s) will then present a summary of the final investigation report, including both allegations that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

#### **29. Testimony and Questioning**

Once the Investigator(s) has presented their report and has been questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”). The parties themselves will not be permitted to conduct questioning.

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

all parties and the Chair), the proceeding will pause to allow the Chair to consider it (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or must be rephrased.

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

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. After the Chair has reached a decision, additional arguments on relevance from the Advisors will not be entertained.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

### **30. Refusal to Submit to Cross-Examination and Inferences**

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not, in making a determination of responsibility, rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) that has not been subjected to cross-examination. The Decision-maker(s) must disregard that statement. Evidence that is something other than a statement and that does not contain a statement by the party or witness may be considered (for example, video footage of the incident).

If the party or witness attends the hearing and answers only some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be considered by the Decision-maker. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements may be considered even without cross-examination.



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

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different Advisor. If a Goodwin-provided Advisor refuses to comply with the rules of decorum, Goodwin may provide that party with a different Advisor to conduct cross-examination.

### **31. Recording Hearings**

Hearings (but not deliberations) may be recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and unauthorized recordings by anyone are prohibited.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### **32. Deliberation, Decision-making, and Standard of Proof**

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The Decision-maker(s) will apply the preponderance of the evidence standard. The hearing facilitator may be invited to attend the deliberation by the Chair if needed, but only to facilitate procedurally, not to address the substance of the allegations, participate in the deliberations, or attempt to influence the decision-making process.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies).

The Decision-maker(s) will review the statements and any pertinent conduct history provided by the appropriate administrator of Goodwin University and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a concise, written decision statement, detailing the determination of responsibility, the rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions and the rationale for those sanctions, and deliver the decision to the Title IX Coordinator.

This decision must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **33. Notice of Outcome**

Using the decision statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Notice of Outcome may then be reviewed by legal counsel. The Title IX Coordinator will then share the Notice of Outcome, which includes the final determination, rationale, and any applicable sanction(s), with the parties and their Advisors within five (5) business days of receiving the Decision-maker(s)' decision statement.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' University-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will also specify the finding on each alleged policy violation; the findings of fact that support the determination of responsibility on each alleged violation; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result as to each allegation; any sanctions issued against the Respondent; and whether any remedies will be provided by the University to the Complainant to ensure access to Goodwin University's educational or employment program or activity, to the extent the University is permitted to share such information under state or federal law.

The Notice of Outcome will also include information concerning when the results will be considered by the University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

#### **34. Statement of Rights of the Parties (See Appendix D)**

#### **35. Sanctions**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the sexual harassment, misconduct, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment, misconduct, and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- The impact on the parties' access to Goodwin's education programs and activities
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal if no appeal is requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

### **a. Student Sanctions**

The following constitutes a list of the usual sanctions that may be imposed upon students or organizations singly or in combination following a determination of responsibility:

- *Verbal Warning:* Notice that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- *Written Warning:* Official notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- *Disciplinary Probation:* Exclusion from participation in privileged activities for a specified period of time. Privileged activities may include, but are not limited to student activities, student government office, or some student employment. Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other College policy violations may result in further disciplinary action.
- *Letter of Apology to the Aggrieved Party:* A student may be required to write a letter of apology to the aggrieved party. A draft copy of the letter must be provided to the Student Conduct Board for approval prior to sending it to the aggrieved party.
- *Restitution:* Repayment to the College or to an affected party for damages resulting from a violation of this Code. To enforce this sanction, the College reserves the right to withhold transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.
- *Suspension:* Exclusion from College premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Conditions for readmission may be specified in the suspension notice.
- *Dismissal:* Permanent termination of student status and exclusion from College premises, education programs, privileges, and activities.
- *Expulsion:* The permanent separation of a student from the University. Expelled students are not allowed on University property, University sponsored events, or University operated vans or shuttle buses. Violation of expulsion may result in arrest for criminal trespassing.

- *Revocation of Admission and/or Degree:* Admission to or a degree awarded by the College may be revoked for fraud, misrepresentation in obtaining the degree, or violation of College policies, the Code or for other serious violations committed by a student prior to enrollment or graduation.
- *Withholding Degree:* The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Code, including the completion of all sanctions imposed, if any.
- *Educational Program:* Whenever possible, the University encourages the student conduct process to be a learning experience to allow the student to grow as a responsible member of the community. Accordingly, the University may mandate that the Respondent take part in educational programs. Educational sanctions can take on a variety of forms and are typically related to the violation.
- *Housing/University Probation:* Probation is assigned for a given amount of time, based on the discretion of Decision-maker in relation to the violation. The purpose is to put the student on notice that further violations may lead to tougher sanctioning and possible separation/suspension. Housing/University probation may also include the right to revoke guest privileges if the Respondent is a residential student.
- *Housing Separation:* Removal from residential facilities. The separation may be temporary or permanent depending on the conduct violation. For the duration of the separation, the student is subject to arrest for criminal trespassing as well as further sanctions if entering a residential area. No refund will be given for fees if student is separated from housing.
- *Immediate Termination of Employment:* Termination of student employment will ensue from gross misconduct, which includes (but is not limited to) timesheet fraud, violations of College information technology policies, or harassment, including sexual harassment. Gross misconduct may also result in referral to the Office of the Vice President of Student Affairs, loss of financial assistance, and/or expulsion from the University.
- *Loss of Guest Privileges:* The University reserves the right to restrict guest privileges, deny access, or ban a guest completely.

**b. Employee Sanctions/Responsive Actions**

Responsive actions for an employee who has engaged in harassment and/or retaliation:

- *Warning – Verbal or Written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade Progression*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above listed sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

### **36. Withdrawal or Resignation While Charges Pending**

#### **a. Students:**

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the

University, the resolution process ends. If a student who withdrew from the University wishes to return at a later date, the student must complete the grievance process upon their return.

However, the University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to the University unless and until all sanctions have been satisfied.

**b. Employees:**

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends.

However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the University or any campus of the University, and the records retained by the Title IX Coordinator will reflect that status.

**37. Appeals**

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within three (3) days of the delivery of the Notice of Outcome. The Title IX Coordinator will work in conjunction with the Goodwin Appeals Board.

A three-member panel will be designated by the Title IX Coordinator in collaboration with the Chair of the Goodwin Appeals Board. No appeal panelists nor the Chair of the Goodwin Appeals Board will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

**a. Grounds for Appeal**

Appeals are limited to the following grounds:

- (A) *New Evidence*: The existence of new evidence that was not reasonably available at the time of the hearing that could affect the outcome of the matter
- (B) *Procedural Error*: The occurrence of a procedural irregularity that affected the outcome of the matter;
- (C) *Conflict of Interest or bias*: The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
- (D) *Inappropriate/Disproportional Sanctioning*: The Sanctions imposed were inappropriate or disproportionate based on the violation.

All Requests for Appeal will be reviewed by the Chair of the Goodwin University Appeals board to determine if the request meets the permissible grounds for appeal.

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the permissible grounds for appeal and is timely filed.

If any of the grounds stated in the Request for Appeal do not meet the four permissible grounds for appeal set forth in this Policy or the Request is untimely, that Request will be denied by the Chair of the Goodwin University Appeals Board and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the timely-filed Request for Appeal meet the three permissible grounds for appeal set forth in this Policy, then the Chair of the Goodwin University Appeals Board will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the Request with the approved grounds and then be given three (3) days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.



The non-appealing party (if any) may also choose to raise a cross-appeal during the responsive time period, provided that the cross-appeal must be submitted within three days from receipt of the Notice of Outcome. In such instances, the Request for Appeal will be reviewed to determine if it meets the grounds in this Policy by Chair of the Goodwin University Appeals Board and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in three (3) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Chair of the Goodwin University Appeals Board will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeal Panel, and the Chair will issue the Board's decision in no more than seven (7) business days, barring exigent circumstances. The Appeals Board will review the Decision-Maker(s) determination for clear error, and all appeals decisions will be by majority vote.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result, and the rationale supporting the essential findings.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' University-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

#### **b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures described above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (described above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

#### **c. Appeal Considerations**

- Appeals are not intended to provide for a full re-hearing (de novo) of the determinations of responsibility and sanctions, but instead review the determinations for clear error. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s). Findings and/or sanctions will be changed only for clear error.
- The Appeal Chair/Decision-maker(s) may consult with the Title IX Coordinator on questions of procedure, for clarification of the proceedings or decision below, if needed, provided, however, that the Title IX Coordinator may not provide input concerning the merits of the appeal. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded for a new or re-opened hearing at the discretion of the appeals board.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural error cannot be cured on remand by the original Decision-maker(s), for example, where the original Decision-maker(s) have been found to have a conflict of interest or bias, the appeal may order a new hearing with (a) new Decision-maker(s).
- The results of a new hearing can be appealed on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status.

### **38. Long-Term Remedies/Other Actions**

If not earlier implemented as ongoing supportive measures, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions that are intended to stop sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services

- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

**39. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair/Panel).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), up to and including dismissal, expulsion, and/or termination from the University and may be noted on a student's official transcript.

A dismissal for failure to abide by sanctions imposed will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

**40. Recordkeeping**

Goodwin University will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies or supportive measures provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. Goodwin will make these training materials publicly available on University's website.
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to the University's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Goodwin University will also maintain any and all records required by state and federal laws.

#### **41. Disabilities Accommodations in the Resolution Process**

Goodwin University is committed to providing reasonable accommodations and support to students, employees, or others with disabilities to ensure equal access to the University's resolution process.

Any person with a disability wishing to request accommodations should contact the Coordinator of AccessAbility Services, if a student, or, if any employee, the Director of Human Resources, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, and consistent with the University's procedures for addressing requests for accommodations, will determine which accommodations are reasonable for full participation in the process.

#### **42. Revision of this Policy and Procedures**

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are deemed in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate scheduling needs. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

Where there is ambiguity about the meaning of the provisions in this Policy, this Policy should be read to be consistent with Title IX and any other applicable state and federal laws.

### **Appendix C – Statement of Rights of the Parties**

The following is a summary of your rights under Goodwin University's Gender-based and Sexual Harassment Policy. These rights are meant to be consistent with, and not in addition to, the University's obligations under that Policy.

- The right to access confidential services. More information about these services can be found in the Confidential Resources section of the Policy or by calling 860-913-2395.
- The right to be informed of community-based support services and resources outside of The University that may be of assistance to you.
- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or retaliation made in good faith to University officials through a formal complaint.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted or required by FERPA or other state or federal law.
- The right to be treated with respect by Goodwin University officials.
- The right not to be pressured to mediate or otherwise informally resolve any reported sexual misconduct.
- The right not to be discouraged by Goodwin officials from reporting sexual harassment or retaliation to both on-campus and off-campus authorities.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by Goodwin authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.

- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Goodwin officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a Goodwin University-implemented no-contact directive when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available support measures and services, including assistance in changing academic, living, and/or working situations after an alleged incident of sexual harassment and/or retaliation, if such changes are warranted and appropriate. No formal report, or investigation, either campus or criminal, needs to occur before support services are available. Such actions may include, but are not limited to:
  - Relocating an on-campus student's housing to a different on-campus location
  - Assistance from Goodwin staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Arranging to dissolve a housing contract and a pro-rated refund
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options

- A no contact order.
- The right to have the Goodwin maintain such actions for as long as necessary and for supportive measures to remain private, to the extent consistent with the law and Goodwin policy and provided that it would not impair the University's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview in which you are to participate.
- The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker(s), may be asked of any party or witness.
- The right for a Complainant to have inadmissible prior sexual history excluded by the Decision-maker, and the right for both parties to have irrelevant evidence excluded.
- The right to know the relevant and directly related evidence obtained by the Investigator(s) and to respond to that evidence.
- The right to a fair opportunity to provide the Investigator(s) with your account of the alleged misconduct and have that account be part of the record.
- The right to receive a copy of the investigation report, including all and all relevant and directly related evidence available and used to produce the investigation report, subject to any privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
- The right to respond to the investigation report, including providing comments after the opportunity to review the investigation report, and to have that response be part of the record, and for the investigator to include any additional relevant evidence in the final report/
- The right to be informed of the names of all hearing participants, including witnesses, in advance of the hearing.
- The right to regular updates on the status of the investigation and resolution.



- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to request that any Goodwin representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of your choice to accompany and assist you if you are a party in all meetings and/or interviews associated with the resolution process, and to a University-appointed Advisor if you do not have an Advisor or prefer a University-appointed Advisor.
- The right to have the University require the participation of faculty and staff as witnesses.
- The right to have the Decision-maker(s) use the preponderance of the evidence to make a finding of responsibility after an objective evaluation of all relevant evidence.
- The right to be present, including present via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to cross-examine parties and witnesses through an Advisor at a live hearing.
- The right to have an impact statement considered by the Decision-maker(s) in deciding on appropriate sanctions following a determination of responsibility.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) of responsibility and sanction(s) imposed as a result of the resolution process and a rationale for the decision, delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the University is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) as a result of the resolution process, the permissible grounds for appeal, and the procedures to be used to file a request for appeal.
- The right to a fundamentally fair resolution as defined in the Policy.

### **Appendix D – Consensual Relationships Policy**

Goodwin University adheres to a strict policy that administrators, staff and faculty members must maintain professional boundaries in personal relations with other colleagues and students. Social meetings with students either individually or in a group are not permitted except for school-sponsored events. Connecting with students directly through social media websites, such as Facebook, Twitter, Instagram, or Snapchat, is also prohibited. Exceptions to this policy may be made for websites that are purely designed for professional networking, such as LinkedIn. Romantic relationships between administrators, staff, or faculty members and students are strictly prohibited.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party involve an inherent power imbalance. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor. This will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities. While such consensual relationships are not prohibited by this policy (unless they involve a student and an administrator, staff, or faculty member), failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

## **AWARENESS AND EDUCATION**

Goodwin University recognizes the importance of awareness and educational efforts as tools in sexual harassment prevention. The University engages in the following prevention initiatives:

- The Gender-based and Sexual Harassment Policy and additional related policies are part of the faculty, staff and student handbooks.
- The Director of Campus Safety and Security briefs all new students at orientation regarding security procedures at Goodwin University. All students are also made aware of the University's Emergency Response Instructions, which contains instructions to follow in the event that an emergency occurs. The Emergency Procedure Guide is posted in every classroom as well as in hallways/corridors. This information is also available on the Goodwin College website at <https://www.goodwin.edu/campus-safety/emergency-instructions>.
- The Title IX Coordinator provides information to students at orientation about the Gender-based and Sexual Harassment Policy and how to file a complaint with the Title IX Coordinator. New employees are also given written information about sexual assault, dating violence, domestic violence, and stalking when they are hired and also during new employee orientation. This information is also available on the Goodwin College website at <https://www.goodwin.edu/title-ix/>.
- Goodwin University maintains a relationship with several key community partners, including the CT Alliance to End Sexual Violence as well as East Hartford's Interval House.
- The University observes Domestic Violence Awareness Month in October, including National Domestic Violence Awareness Day (10/22/2020), Sexual Assault Awareness Month in April, and Stalking Awareness Month in January. The University also hosts an annual Fresh Check Day where students and members of the community can connect with emotional and mental health support services.
- On February 7, 2020 Goodwin University sponsored an event for members of the community to see a production of the *Vagina Monologues*.
- In the Summer of 2020 Goodwin University's Vice President of Student Affairs and Dean of Student commissioned a group of individuals across the Goodwin Community to come together and engage in active prevention efforts against Domestic Violence, Intimate Partner Violence, and Dating Violence. This group consists of student, staff, and faculty members from various departments and meets on a bi-weekly basis.
- Brochures and information on sexual assault, dating violence, domestic violence, and stalking are made available in key locations including the counselor's office, the Office of Student Affairs, and at the Office of the Title IX Coordinator.
- Emergency phones can be found throughout campus.

### **SEXUAL ASSAULT, STALKING AND INTIMATE PARTNER VIOLENCE INCIDENTS ON CAMPUS**

The number of incidences of sexual assault, stalking and intimate partner violence reported to such institution:

- Goodwin College reports 0 instances of sexual assault reported in 2020.
- Goodwin College reports 0 instance of stalking reported in 2020.
- Goodwin College reports 0 instances of intimate partner violence reported in 2020.

The number of confidential or anonymous reports or disclosures to the institution of sexual assault, stalking and intimate partner violence:

- Goodwin College reports 0 confidential or anonymous reports of sexual assault 2020.
- Goodwin College reports 0 confidential or anonymous reports of stalking reported in 2020.
- Goodwin College reports 0 confidential or anonymous reports of intimate partner violence reported in 2020.

The number of disciplinary cases at the institution related to sexual assault, stalking and intimate partner violence

- Goodwin College reports 0 disciplinary cases related to sexual assault 2020.
- Goodwin College reports 0 disciplinary case related to stalking reported in 2020.
- Goodwin College reports 0 disciplinary cases related to intimate partner violence reported in 2020.

The final outcome of all disciplinary cases at the institution related to sexual assault, stalking and intimate partner violence, including, but not limited to, the outcome of any appeals of such final outcome, to the extent reporting on such outcomes does not conflict with federal law

- As there were no reported instances of sexual assault, intimate partner violence, or stalking in 2020, there were no disciplinary cases, and thus no final outcomes or appeals.

### **UCR Crime Statistics Chart**

<b>Criminal Offenses Reporting Table - 2020</b>				
<b>OFFENSE</b>	<b>YEAR</b>	<b>GEOGRAPHIC LOCATION</b>		
		<b>ON-CAMPUS PROPERTY</b>	<b>NONCAMPUS PROPERTY</b>	<b>PUBLIC PROPERTY</b>
MURDER/NON-NEGLIGENT MANSLAUGHTER	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
MANSLAUGHTER BY NEGLIGENCE	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
RAPE	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
FONDLING	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
INCEST	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
STATUTORY RAPE	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
ROBBERY	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
AGGRAVATED ASSAULT	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
BURGLARY	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
MOTOR VEHICLE THEFT	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
ARSON	2018	0	0	0
	2019	0	0	0
	2020	0	0	0

VAWA Offenses Reporting Table - 2018				
OFFENSE	YEAR	GEOGRAPHIC LOCATION		
		ON-CAMPUS PROPERTY	NONCAMPUS PROPERTY	PUBLIC PROPERTY
DOMESTIC VIOLENCE	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
DATING VIOLENCE	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
STALKING	2018	0	0	0
	2019	0	0	0
	2020	0	0	0