



Fairfield  
UNIVERSITY

**Annual Report to CT  
General Assembly  
PA 14-11 (2024)**





October 10, 2024

Higher Education and Employment Advancement Committee

Dear Committee,

Fairfield University apologizes for the delay respectfully submits the following report to the Connecticut General Assembly Higher Education Committee in accordance with the Public Act of 14-11. This report summarizes the University's policies and programs for preventing and responding to sexual assault and other forms of gender-based violence and provides relevant data for the calendar year of 2023. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

Chief Keith Broderick  
Associate Vice President of Public Safety

**PUBLIC SAFETY**

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**Fairfield University**  
1073 North Benson Road  
Fairfield, CT 06824-5195

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203-254-4090  
203-254-4238 (FAX)  
fairfield.edu



# Fairfield University

## 2024 PA 14-11 Crime/Incident Statistics

(2023 crime/incident statistics)

### Number of Incidents Reported to the University

Sexual Assault: **3**

Stalking: **5**

Intimate Partner Violence: **1**

Forcible Fondling: **4**

### Number of Anonymous Reports to the University

Sexual Assault: **0**

Stalking: **0**

Intimate Partner Violence: **0**

Forcible Fondling: **0**

### Number of Disciplinary Cases

Sexual Assault: **0**

Stalking: **0**

Intimate Partner Violence: **0**

Forcible Fondling: **0**

### Outcome of Disciplinary Cases

Sexual Assault: N/A

Stalking: N/A

Intimate Partner Violence: N/A

Forcible Fondling: N/A

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## **Sexual Misconduct Policy**

### **1. Glossary**

- *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 questioning for the party at the hearing, if any.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on sex; 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 harassment or discrimination based on sex or retaliation for engaging in a protected activity against a Respondent and requesting that the University investigate the allegation.
- *Confidential Resource* means an employee who is not an Employee with a Responsibility to Report and may not share with the Title IX Coordinator when they have received notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when the University is in normal operation.
- *Decision-maker* is the person, panel, and/or Chair who hears evidence, determines relevance, and makes the Final Determination of whether this Policy has been violated and/or assigns sanctions.
- *Directly Related Evidence* is evidence connected to the complaint, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and cannot be relied upon by the investigation report or Decision-maker. Compare to Relevant Evidence, below.
- *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, discrimination, and/or retaliation occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- *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 “Process A,” a method of formal resolution designated by the University to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).

- *Hearing Decision-maker(s)* refers to those who have decision-making and sanctioning authority within the University's Formal Grievance process.
- *Investigator* means the person or persons charged by a University with gathering facts about an alleged violation of this Policy, assessing relevance, synthesizing the evidence, and compiling this information into an investigation report of Relevant Evidence and a file of Directly Related Evidence, as required based on policy.
- *Employee with a responsibility to report* means an employee of the University who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- *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 harassment, discrimination, and/or retaliation on behalf of the University.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Process A* means the Formal Grievance Process detailed in this policy.
- *Process B* means the administrative resolution procedures detailed in this policy that apply only when Process A does not, as determined by the Title IX Coordinator.
- *University* means Fairfield University, a postsecondary education program that is a recipient of federal funding.
- *Relevant Evidence* is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.
- *Remedies* are post-Finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on sex; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *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 the official designated by the 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 and any administrator of the grievance process.

## **2.Rationale for Policy**

Fairfield University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sex-based discrimination, including sexual harassment, and retaliation for engaging in a protected activity. To ensure compliance with federal, state, and local laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, Fairfield University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of sex, and for allegations of retaliation. Fairfield University values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

## **3.Applicable Scope**

The core purpose of this policy is the prohibition of sex-based discrimination and retaliation. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. At other times, discrimination takes the form of harassment, which can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this policy is reported, the allegations are subject to resolution using University's "Process A" or "Process B," as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the University community, a formal complaint may be filed and a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

## **4.Title IX Coordinator**

The Title IX Coordinator has the primary responsibility for coordinating Fairfield's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent discrimination, harassment, and retaliation prohibited under this policy.

## **5.Independence and Conflict-of-Interest**

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members

of the Title IX Team 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, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Vice President of Diversity Don Sawyer at [dsawyer@fairfield.edu](mailto:dsawyer@fairfield.edu) for 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 or discrimination committed by the Title IX Coordinator should be reported to the Vice President of Diversity Don Sawyer at [dsawyer@fairfield.edu](mailto:dsawyer@fairfield.edu) for Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

#### **6. Administrative Contact Information**

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

**Dylan Gordon**

Senior Director, Title IX and Equity Compliance 1073 North Benson Road  
Fairfield, CT 06824  
203-254-4357  
[Equity@Fairfield.edu](mailto:Equity@Fairfield.edu)

Fairfield University has also classified most employees as Employees with a Responsibility to Report any knowledge they have that a member of the community is experiencing sex-based harassment, discrimination, and/or retaliation. The section below on reporting details which employees have this responsibility and their duties, accordingly.

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 #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

For complaints involving employees:

[Equal Employment Opportunity Commission](#) (EEOC)  
JFK Federal Building  
15 New Sudbury Street, Room 475  
Boston, MA 02203-0506

Phone: 1-800-669-4000  
Fax: 617-565-3196  
TTY: 1-800-669-6820  
ASL Video Phone: 844-234-5122

## **7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation**

Notice or complaints of sex-based discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) Submit a report or complaint to, or give verbal notice to, the Title IX Coordinator. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.
- 2) Report online, using the LiveSafe app. The Department of Public Safety will first respond and will notify the Title IX Coordinator, who will provide further information about filing a Formal Complaint. Anonymous reports are accepted via the LiveSafe app but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. The University tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant. Because reporting carries no obligation to initiate a formal response, and because the University respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows the University to discuss and/or provide supportive measures.

A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the University investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requesting that the University investigate the allegations.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## **8. Supportive Measures**

Fairfield University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are 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 and/or the University's educational environment, and/or to deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the Title IX Coordinator 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 Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented. Supportive measures will be provided if they are available, determined to be reasonable, and requested. Supportive measures can be requested by contacting the Title IX Coordinator.

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

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Legal assistance
- 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
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Campus No Trespass Warnings
- Information on applying for protective orders and/or temporary restraining orders
- Timely Warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

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

In addition to the above listed supportive measures, the Title IX Coordinator will inform the Complainant of their right to report or decline to report to local law enforcement, as well as the University's ability to assist in notifying local law enforcement.

This information is provided in a written notification.

### **9. Emergency Removal**

The University can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Threat Assessment Team using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

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

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 within the student or employee conduct processes, which may include expulsion or termination.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee'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.

When the Respondent is an employee, existing provisions for interim action are applicable instead of the emergency removal process.

## **10.Promptness**

All allegations are acted upon promptly by the University once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the University procedures will be delayed, the Title IX Coordinator will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

## **11.Confidentiality/Privacy**

Every effort is made by the University to preserve the confidentiality of reports.

Fairfield will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, 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; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

The 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).

Only a small group of officials who need to know will typically be told about the complaint. Information will be shared as necessary with Investigators, Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The University may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

Confidentiality and reporting responsibilities are addressed more specifically below.

## **12.Jurisdiction of the University**

This Policy applies to the education program and activities of Fairfield University, to conduct that takes place on the campus or on property owned or controlled by the University, at University-sponsored events, and in buildings owned or controlled by University recognized student organizations. The Respondent must be a member of University's community in order for this Policy to apply.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprive a person of access to Fairfield's educational program. The University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest.

Regardless of where the conduct occurred, the University will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial University interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that substantially interferes with the educational interests or mission of the University.

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

Further, even when the Respondent is not a member of the University's community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator.

In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers.

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 through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

### **13. 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 the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or 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 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.

When notice/complaint is affected by a time delay, the University will apply the policy in place at the time of the alleged misconduct. Typically, this Policy is only applied to incidents that occurred after August 14, 2020. For incidents that occurred prior to August 14, 2020, previous versions of this Policy will apply. Those versions are available from the Title IX Coordinator.

#### **14. Online Harassment and Misconduct**

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

Although Fairfield may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to the University, it will engage in a variety of means to address and mitigate the effects.

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 University community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the University's control (e.g., not on University networks, websites, or between University email accounts) will only be subject to this Policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the freedom of expression. Supportive measures for Complainants will be provided, but protected expression cannot be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the University only when such speech is made in an employee's official or work-related capacity.

#### **15. Non-Discrimination Policy**

Fairfield University adheres to all federal, state, and local civil rights laws and regulations prohibiting discrimination in private institutions of higher education.

Fairfield University provides equal employment opportunities to all employees and applicants for employment and does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of: race, religion, hearing status, color, sex, pregnancy, political affiliation, source of income, place of business, residence, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability (including perceived disability), age, marital status, family responsibilities, sexual orientation, gender identity, gender expression, veteran or military status (including disabled veteran, recently separated veteran, active duty wartime or campaign

badge veteran, and Armed Forces Service Medal veteran), predisposing genetic characteristics, domestic violence victim status or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any resolution process on campus, with the Equal Employment Opportunity Commission, the State of Connecticut Commission on Human Rights and Opportunities, or other human rights agencies. University policy is committed to affirmative action under law in employment of women, minority group members, individuals with disabilities, and protected veterans.

#### **16. Policy on Sexual Harassment**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of sexual harassment.

All offense definitions encompass actual and/or attempted offenses.

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Connecticut regard sexual harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. Fairfield University prohibits sexual harassment.

Fairfield has adopted the following definition of sexual harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual in nature that satisfies one or more of the following:

- 1) Quid Pro Quo:
  - a. an employee of the University,
  - b. conditions the provision of an aid, benefit, or service of the University,
  - c. on an individual's participation in unwelcome sexual conduct.
- 2) 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 University's education program or activity.

Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below 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 ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

3) Sexual assault, defined as:

a) Sex Offenses, Forcible:

- Any sexual act directed against another person,
- without the consent of the Complainant,
- Including instances in which the Complainant is incapable of giving consent.

A 'sexual act' is specifically defined by federal regulations to include one or more of the following:

Forcible Rape:

- Penetration,
- no matter how slight,
- of the vagina or anus with any body part or object, or
- oral penetration by a sex organ of another person,
- Without the consent of the Complainant.

Forcible Sodomy:

- Oral or anal sexual intercourse with another person,
- forcibly,
- and/or against that person's will (non-consensually), or
- Not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Forcible Fondling:

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in 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:

- Incest:
  - 1) Non-forcible sexual intercourse,
  - 2) between persons who are related to each other,
  - 3) within the degrees wherein marriage is prohibited by Connecticut law.
- Statutory Rape:
  - 1) Non-forcible sexual intercourse,

2) with a person who is under the statutory age of consent of 16.

4) Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. 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. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Connecticut, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Connecticut.

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

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. 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.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.



- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Fairfield reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy. The more serious offenses are likely to result in suspension/expulsion/termination, where warranted.

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. 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.

**Affirmative Consent is:**

- active,
- clear, and
- voluntary agreement
- by a person
- to engage in sexual activity
- with another person.

At institutions of higher education in the state of Connecticut, affirmative consent is the standard used in determining whether consent to engage in sexual activity was given by all persons who engaged in the sexual activity. Affirmative consent may be revoked at any time during the sexual activity by any person engaged in the sexual activity. It is the responsibility of each person to ensure that they have 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. It shall not be a valid excuse to an alleged lack of affirmative consent that the student or employee responding to the alleged violation believed that the student or employee reporting or disclosing the alleged violation consented to the sexual activity (i) because the responding student or employee was intoxicated or reckless or failed to take reasonable steps to ascertain whether the student or employee reporting or disclosing the alleged violation affirmatively consented, or (ii) if the responding student or employee knew or should have known that the student or employee reporting or disclosing the alleged violation was unable to consent because such student or employee was unconscious, asleep, unable to communicate due to a mental or physical condition, or incapacitated due to the influence of drugs, alcohol or medication. The existence

of a past or current dating or sexual relationship between the student or employee reporting or disclosing the alleged violation and the responding student or employee, in and of itself, shall not be determinative of a finding of affirmative consent.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity. Consent can be given by a person's word or actions.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

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 and any similar and previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual, so the University's evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

**Note:** The definition of consent in the state of Connecticut for criminal prosecution of sex offenses differs from the definition used on campus to address policy violations. For purposes of criminal prosecution of sex offenses in the state of Connecticut, consent is not present when a person compels another person to submit to sexual contact by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person, which reasonably causes such other person to fear physical injury to himself or herself or a third person.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

### **17. Policy on Other Sex-based Civil Rights Offenses/Discrimination**

In addition to the forms of Sexual Harassment described above, which will be investigated and resolved using Process A, Fairfield University additionally prohibits the following offenses as forms of discrimination when the act is based upon the Complainant's actual or perceived sex. These will be investigated and resolved using Process B.

- Discriminatory Harassment Based on Sex, defined as:
  - conduct that meets the definition of Sexual Harassment as described above, but that does not take place in the University's education program or activity, or
  - conduct that meets the definition of Sexual Harassment as describes above and takes place within the University's education program or activity, but does not take place in the United States, or
  - conduct that does not meet the definition of Sexual Harassment as described above, but is unwelcome, sexual, sex-based and/or gender-based, verbal, written, online and/or physical conduct;
- Sexual Exploitation, defined as: an individual taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this Policy. Examples of Sexual Exploitation include, but are not limited to:
  - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
  - Invasion of sexual privacy.
  - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography
  - Prostituting another person

- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowing creation, possession, or dissemination of child pornography;
- Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities, including disparate treatment;
- 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 (as defined further in the Hazing Policy);
- Bullying, defined as:
  - Repeated and/or severe
  - Aggressive behavior
  - Likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally
  - That is not speech or conduct otherwise protected by the University policy, including Academic Freedom.

Violation of any other University policies may constitute a Civil Rights Offense/Discrimination when a violation is motivated by actual or perceived sex and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses/Discrimination range from reprimand through expulsion/termination.

### **18. Retaliation**

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.

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

Fairfield University and any member of the University's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual 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.

Filing a complaint within Process B could be considered retaliatory if those charges could be applicable under Process A, when the Process B charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, the University vets all complaints carefully to ensure this does not happen, and to assure that complaints are routed to the appropriate process.

The exercise of rights protected by academic freedom and/or freedom of expression does not constitute retaliation.

Charging an individual with a Student Conduct Code violation, or other University policy 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 the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

#### **19. Relationship with Academic Freedom and Freedom of Expression**

Fairfield University is committed to protecting the academic freedom of its faculty and the freedom of expression of all members of the University community. That commitment is reflected in the University's policies on academic freedom and freedom of expression. Academic freedom and freedom of expression include the expression of ideas, controversial and otherwise, both within and outside the classroom and in keeping with different responsibilities within the workplace on campus. The policies on discrimination and harassment are to be applied in a manner that is balanced against, consistent with, and protective of, the rights of academic freedom and freedom of expression of all parties, and especially regarding this policy, when faculty and students are teaching and learning about sex/sexuality. However, said policies will defer to the requirements of the law under Title IX.

#### **20. Employees with a Responsibility to Report**

All University employees (faculty, staff and administrators) are expected to report actual or suspected discrimination, harassment, and/or retaliation based on sex to the Title IX Coordinator immediately, although there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and reporting responsibilities when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment in a way that identifies the parties. They may offer options and resources without any obligation to inform the Title IX Coordinator unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Employee with a Responsibility to Report 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 when an incident is reported to them.

The following sections describe the reporting options at Fairfield for a Complainant or third-party (including parents/guardians when appropriate):

#### **a. Confidential Resources**

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- Counseling & Psychological Services (On-Campus, Students only) 203-254-4000 ext. 2146
- Student Health Center (On-Campus, Students only) 203-254-4000 ext. 2241
- 24/7 Confidential Care Line (On-Campus, Students only) (203) 256-7272 (SARA)
- Jesuit Community/clergy/chaplains working within the scope of their licensure or ordination (On-Campus) 203-254-4000 ext. 2664
- Employee Assistance Program (EAP) (Employees Only) 1-800-252-4555
  
- Off-campus:
  - The Center for Family Justice  
(203) 333-2233 (sexual assault hotline)  
(203) 384-9559 (domestic violence hotline)
  - Bridgeport Hospital (203) 384-3566
  - St. Vincent's Hospital (203) 576-6000
  - Connecticut Office of the Victim Advocate (860) 550-6632
  - Espanol Hotline (888) 568-8332
- 

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, professional credentials, or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

University employees who have confidential privilege as described above, and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

## **b. Employees with a Responsibility to Report and Formal Notice/Complaints**

All employees of the University (including student employees), with the exception of those who are designated as Confidential Resources, are Employees with a Responsibility to Report and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Employees with a Responsibility to Report, as those details must be shared with the Title IX Coordinator.

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 that must be reported to the 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 an Employee with a Responsibility to Report, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when an Employee with a Responsibility to Report is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the University is technically not on notice simply because a harasser is also an Employee with a Responsibility to Report unless the harasser does in fact report themselves.

Finally, it is important to clarify that an Employee with a Responsibility to Report who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

### **21. 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, and/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 or 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, usually upon completion of an appropriate violence risk assessment.

The Title IX Coordinator’s decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the 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. The University 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 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, the Complainant (and/or their Advisor) 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.

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, the University may offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

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 the University, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issue with respect to the status of the parties.

## **22.Federal Timely Warning Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the University must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University will 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.



### **23.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. This does not include 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 can be subject to discipline under appropriate University policies.

### **24.Amnesty for Complainants and Witnesses**

The Fairfield 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 in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident.

It is in the best interests of the University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, Fairfield maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. A decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

**Students:** Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to the Department of Public Safety).

The University maintains a policy of amnesty for students who offer help to others in need.

**Employees:** Sometimes, employees are hesitant to report harassment or discrimination they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the policy prohibiting maintaining relationships that pose a direct conflict of interest and is then assaulted in the course of that relationship might hesitate to report the incident to University officials. The University may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to others on a case-by-case basis.

### **25.Federal Statistical Reporting Obligations**

Certain campus officials – those deemed Campus Security Authorities (CSAs)– have a duty to report the following 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) Violence Against Women Act (VAWA) -based crimes, 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 is kept private, but statistical information must be shared with the Department of Public Safety regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, public safety, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

## **26.Preservation of Evidence**

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and is particularly time-sensitive. The University will inform the Complainant of the importance of preserving evidence by taking the following actions:

1. Seek forensic medical assistance at the Bridgeport Hospital or St. Vincent’s Hospital, ideally within 120 hours of the incident (sooner is better).
2. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
6. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

It is also important to preserve other evidence, such as text messages, voice messages, emails, letters, notes, photographs, videos, audio recordings, and social media messages.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.

## **27.Prevention and Education**

Fairfield University provides primary prevention and awareness programs for all incoming students and new employees. These programs are delivered in multiple forms and mediums and include both online modules and in-person sessions. These programs include a statement that Fairfield University prohibits sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation. The programs further include the definitions of the above listed terms as they apply to the University

polices, as well as the definition of consent. These programs include the definitions of sexual assault, dating violence, domestic violence, stalking, and consent in the state of Connecticut. These programs provide safe and positive options for bystander intervention. These programs provide information on risk reduction. These programs provide information on procedures that Fairfield University will follow when one of these crimes is reported. These programs provide information on rights in the University disciplinary proceedings. Fairfield University also provides ongoing prevention and awareness campaigns for students and employees.

For the text of the state of Connecticut definitions please see the Penal Code: Offenses in the Connecticut General Statutes.

## **28.Resources**

### **On-Campus**

Campus Advocate Kelley Ctr; Monday 12:30 – 4:30; Thursday 9:00 – 1:00 (203) 334-6154  
Counseling and Psychological Services (203) 254-4000, ext. 2146 (students only, confidential)  
Clerical Abuse Victim Assistance Coordinator (203) 416-1406  
Student Health Center (203) 254-4000, ext. 2241 (students only, confidential)  
Office of Financial Aid (203) 254-4125 (students only)  
Employee Assistance Program 1-800-252-4555 (employees only, confidential)  
Campus Ministry (203) 254-4000, ext. 3405 (students only)  
Clergy (203) 254-4000, ext. 2664 (confidential)  
Murphy Center for Ignatian Spirituality (203) 254-4000 ext. 2373 (confidential)  
Office of the Dean of Students (203) 254-4211 (students only)  
Office of Human Resources (203) 254-4000, ext. 2277 (employees only)  
Office of Residence Life (203) 254-4215  
Public Safety (203) 254-4090  
Title IX and Equity Compliance, Dylan Gordon, [equity@fairfield.edu](mailto:equity@fairfield.edu) (203) 254-4357

### **Off-Campus**

Bridgeport Hospital (203) 384-3566 (confidential)  
St. Vincent's Hospital (203) 576-6000 (confidential)  
The Center for Family Justice, Campus Advocates (203) 334-6154 (confidential)  
(203) 333-2233 (sexual assault hotline)  
Triangle Community Center (203) 853-0600  
Español Hotline (888) 568-8332 (confidential)  
Connecticut Office of the Victim Advocate (860) 550-6632 (confidential)  
Connecticut Legal Services (860) 344-0447 (confidential)  
Connecticut Institute for Refugees and Immigrants (203) 336-0141  
Integrated Refugee & Immigrant Services (IRIS) (203)-562-2095  
Fairfield Police Department (203) 254-254-4800 or 911

## **RESOLUTION PROCESS FOR ALLEGED SEXUAL HARASSMENT UNDER TITLE IX (KNOWN AS PROCESS "A")**

### **1.Overview**

Fairfield University will act on any formal notice/complaint of violation of the Sexual Misconduct Policy

("the Policy") that is received by the Title IX Coordinator. The proceedings will include a prompt, fair, and impartial process from the initial assessment to the final result.

The procedures below, known as Process A, apply **only** to qualifying allegations of Sexual Harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members. Alleged conduct that does not meet the definition of Sexual Harassment in this policy must be "dismissed" under this policy (more on dismissals below).

Process B is the procedure applicable to the resolution of other allegations, including sex-based Civil Rights Offenses/Discrimination described in this policy. Process B can also apply to conduct that meets the definition of Sexual Harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

Unionized/other categorized employees are subject to the terms of their agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), when alleged violation of the Policy are being addressed at the same time. All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student, faculty, and staff handbooks.

All reference to the Title IX Coordinator also includes their designee.

## **2. Notice/Complaint**

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the 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 at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
- 2) An informal resolution (upon submission of a formal complaint); and/or
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

The University uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, the University will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, and/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 an initial assessment, typically within one to five business days. 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 to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves because a violence risk assessment indicates a compelling threat to health and/or safety.
- 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.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses their request(s), and implements accordingly. No Formal Grievance Process is initiated, 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, and may seek to determine if the Respondent is also willing to engage in informal resolution.
  - If a Formal Grievance Process is preferred by the Complainant, the Title IX Coordinator determines if the misconduct alleged falls within the scope of the 2020 Title IX regulations:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue, based on the nature of the complaint.
    - If alleged misconduct does not fall within the scope of the 2020 Title IX regulations, the Title IX Coordinator determines that the regulations do not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, and will refer the matter accordingly, including referring the matter for resolution under Process B, if applicable. Please note that dismissing a complaint under the 2020 Title IX regulations is solely a procedural requirement under Title IX which does not limit the University’s authority to address a complaint with an appropriate process and remedies.

#### **a. Violence Risk Assessment**

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Threat Assessment Team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to an individual or the community's physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether the scope of the investigation should include an incident, and/or pattern of misconduct, and/or climate of hostility/harassment;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and if so, what approach 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/Campus No Trespass Warning is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term 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 Case Management Committee or Threat Assessment Team members. A VRA authorized by the Title IX Coordinator should occur in collaboration with the Threat Assessment 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)**

The University must dismiss a formal complaint or any allegations therein 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 above, even if proved; and/or
- 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 does not have control of the Respondent; 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 the University.

The University may dismiss a formal complaint 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 the 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, the University 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 below. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

#### **4.Counterclaims**

The University is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, made for purposes of retaliation instead. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy or the Student Conduct Code.

#### **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 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.

“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.

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

The University may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

#### **a. Who Can Serve as an 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 them throughout the resolution process. The parties may choose Advisors from inside or outside of the University community.

The Title IX Coordinator will also offer to assign a trained Advisor to any party if the party so chooses. If the parties choose an Advisor from the pool available from the University, the Advisor will be trained by the University and be familiar with the University's resolution process.

If the parties choose an Advisor from outside the pool of those identified by the University, the Advisor may not have been trained by the University 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.

#### **b. Advisors 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, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

#### **c. Advisors in Hearings/University-Appointed Advisor**

Under U.S. Department of Education regulations for Title IX, a form of indirect questioning (cross-examination) is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other part(ies) and witnesses.

#### **d. Pre-Interview Meetings**

Advisors and their advisees may request to meet with investigators conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and the University's policies and procedures. This pre-meeting may also include the Title IX Coordinator.



#### **e. Advisor Violations of University Policy**

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by the University. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University officials or investigators in a meeting or interview unless invited to do so (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee 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 a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process 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/interview/hearing 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.

#### **f. Sharing Information with the Advisor**

The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors.

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

If a party requests that all communication only be made through their Advisor, the University will not comply with that request.

Advisors appointed by the institution will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers

#### **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 publically, or used for purposes not explicitly authorized by the University. The University may 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.

#### **h. Expectations of an Advisor**

The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned, but the University 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 be present in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### **i. Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the 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. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor should be secured. 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.

For parties who are entitled to union representation, the University will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are not permitted to have union representation or Advisors in grievance process interviews or meetings.

### **6. Resolution Processes**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with 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 as part of an Informal Resolution, discussed below. The University encourages parties to discuss with their Advisors any sharing of information before doing so.

#### **a. Informal Resolution**

Informal Resolution can include three different approaches:

- Supportive Resolution- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- Alternative Resolution- When the parties agree to resolve the matter through an alternate resolution mechanism, usually before a formal investigation take place.

- Accepted Responsibility- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process.

To initiate Informal Resolution, a Complainant must submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator to so indicate.

The parties may agree as a condition of engaging in Informal Resolution that statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Grievance Process unless all parties consent.

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.

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.

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.

#### **b. Alternate Resolution Mechanism**

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

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of allegation;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in an Alternate Resolution (time, staff, etc.)

The ultimate determination of whether an Alternate Resolution is available or successful is to be made

by the Title IX Coordinator. The Title IX Coordinator is authorized to negotiate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors.

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 an 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 used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of University policy and implements 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 at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, 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 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.

## **7. Grievance Process Team**

The Formal Grievance Process relies on a team of administrators to carry out the process.

### **Investigators**

The Title IX Coordinator will appoint a previously designated and trained investigator to complete an investigation. All investigators – internal or external – will be selected from a group of qualified and trained individuals employed by the University or engaged by the University for the purpose of conducting investigations under the Sexual Misconduct Policy.

### **Advisors**

As described in the previous section on Advisors, the University maintains a pool of trained Advisors. Parties are entitled to an advisor of their choice, but the Title IX Coordinator will also offer to assign a

trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the University, the Advisor will be trained by the University and be familiar with the University's resolution process.

### **Decision-Makers**

- The Decision-maker for student Respondents and student groups, organizations, and teams shall be the Dean of Students, or their designee, or an external decision-maker who has been engaged by the University for the purpose of making a decision.
- The Decision-maker for faculty Respondents shall be the dean of the Respondent's college/school, or their designee, or an external decision-maker who has been engaged by the University for the purpose of making a decision. Additionally, a body of faculty members shall determine sanctions for tenured and tenure-track faculty members when the finding of the Decision-maker could result in a severe sanction or removal.
- The Decision-maker for staff Respondents shall be the Vice President for Human Resources, or their designee, or an external decision-maker who has been engaged by the University for the purpose of making a decision.

### **Appeal Decision-maker**

- The Appeal Decision-maker for student Respondents and student groups, organizations, and teams shall be the Vice President for Student Life, or their designee.
- The Appeal Decision-maker for faculty Respondents shall be the Provost, or their designee.
- The Appeal Decision-maker for staff Respondents shall be the Executive Vice President/Chief Operating Officer.

### **Team Member Training**

The team members receive annual training based on their respective roles. This training includes, but is not limited to:

- The scope of the University's Sexual Misconduct 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, timely, and impartial manner by individuals who receive annual training in conducting investigations of sexual harassment, trauma-informed practices, and impartiality
- 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 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 against Respondents and/or Complainants, and on the basis of sex, race, religion, and other protected characteristics
- 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, discrimination, and/or retaliation allegations
- Recordkeeping

The materials used to train all members of the team are publicly posted on the University 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 is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- 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 the evidence supports a different determination,
- 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 confidentiality of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an 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,
- Detail on how the party may request disability accommodations during the interview process,
- A link to the University’s VAWA Brochure,
- The name(s) of the Investigator(s), along with a process to identify to the Title IX Coordinator, in

advance of the interview process, to the Title IX Coordinator any conflict of interest 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 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 will be presumptively delivered.

### **9.Resolution Timeline**

The University will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal if any, which can be extended as necessary 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 one or more trained Investigator(s) to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

### **11.Ensuring Impartiality**

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

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. At any time during the resolution process, the parties may 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, another trained Investigator will be assigned 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 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 and evidence that supports that the Respondent did not engage in a policy violation. 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 to be responsible for a policy violation by

the applicable standard of proof.

## **12. Investigation Timeline**

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

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.

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

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. 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 the anticipated duration of the delay and reason to the parties, and provide the parties with status updates if necessary. The University will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the University 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.

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

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

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. Recordings of interviews are not provided to the parties, but the parties will have the ability to review the transcript or summary of the interview once the investigation report is compiled.

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

- Determine the identity and contact information of the Complainant
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator, if needed, 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
- Work with the Title IX Coordinator, as necessary, to prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (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, and location of the meeting, as well as the expected participants and purpose
- 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 deviation from the intended timeline
- 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. Appendices including relevant physical or documentary evidence will be included
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, 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 reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. 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 and 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 for additional responses
- The Investigator(s) will 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
- The Investigator will incorporate any relevant feedback, and the final report is then shared 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 and advisors are also provided with a file of any directly related evidence 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 strongly encouraged to cooperate with and participate in the University's investigation and resolution process. Student witnesses and witnesses from outside the University community are encouraged to cooperate with University investigations and to share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) 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 other reasons 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 does not intend to be and is not present for questioning at a hearing, their written statement may not be used as evidence.

### **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 should be made aware of audio and/or video recording.

### **17.Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; or 2) questions and evidence about the Complainant's sexual predisposition; or 3) questions and evidence about the Complainant's 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 if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

## **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 held 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(s) – unless all parties and the Decision-maker(s) agree to an expedited timeline.

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

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

The University will designate a single Decision-maker, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing.

The Decision-maker will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate sit in throughout the hearing process in the event that a substitute is needed for any reason.

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

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

Any evidence that the Decision-maker(s) determine(s) is relevant may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions of evidence about the Complainant's sexual predisposition; or 3) questions or evidence about the Complainant's 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 if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. 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 the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker(s) renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

## **21. 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 of the hearing.
- A description of 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 an invitation to object to any Decision-maker on the basis of demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Title IX Coordinator may 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 one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present. 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 (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.
- 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 seven (7) business days prior to the hearing.
- Notice that parties cannot 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 or during the summer, as needed, to meet the

resolution timeline followed by the University and remain within the 60-90 business day goal for resolution.

## **22. Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should 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 remote testimony without compromising the fairness of the hearing. 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.

## **23. Pre-Hearing Preparation**

After any necessary consultation with the parties, the Chair 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 first interviewed 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. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given the name of the Decision-maker 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 must be submitted to the Title IX Coordinator as soon as possible and no later than two days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

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 cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. 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.

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 a hearing and will be exchanged between each party by the Chair.

## **24.Pre-Hearing Meetings**

The Chair may convene a pre-hearing meeting(s) with the parties and their Advisors and invite them to submit the questions or topics they (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

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 on a pre-hearing ruling by the Chair 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 at a pre-hearing meeting.

The Chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

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 exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded. The pre-hearing meetings may be conducted as separate meetings with each party/advisors, with all parties/advisors present at the same time, remotely, or as a paper-only exchange. The Chair will work with the parties to establish the format.

## **25.Hearing Procedures**

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the discrimination, 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 hearing facilitator (generally the Title IX Coordinator), the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear 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.

## **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 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 explains the procedures and introduces 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. 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.

The Chair or hearing facilitator then conducts the hearing according to the hearing script. 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 or case manager 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 the Final Investigation Report**

The Investigator(s) will then present a summary of the final investigation report, including items 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 Advisors and parties will refrain from discussion of or questions for Investigators about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

## **29. Testimony and Questioning**

Once the Investigator(s) present(s) the report and are 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 hearing will facilitate questioning of the parties and witnesses by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all the parties and the Chair), the proceeding will pause to allow the Chair to consider the question (and state it if it has not already been stated aloud), and the Chair will determine whether the question will

be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with 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. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

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**

Cross-examination is an all or nothing proposition, meaning that if any question is refused, no statements of that party or witness are admissible. Only if a party or witness is willing to submit to cross-examination, and answers all questions, will their statements prior to or at the hearing be fully admissible. 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 rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker(s) must disregard all such statements. Evidence provided that is something other than a statement by the party or witness may be considered.

Whether a party or witness does or does not answer questions from the Decision-maker, their statements will be admissible as long as they are willing to submit to cross-examination questions, even if they are not asked such questions. 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 collateral 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 University-provided Advisor refuses to comply with the rules of decorum, the University may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.



It is otherwise considered off-limits, and an Advisor who is an institutional employee is temporarily alleviated from mandated reporter responsibilities related to their interaction with their advisee during the resolution process.

### **31. Recording Hearings**

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording or review a transcript of the recording in a controlled environment determined by the Title IX Coordinator, upon request. 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. The preponderance of the evidence standard of proof is used.

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) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history provided by Title IX Coordinator and will determine the appropriate sanction(s), in consultation with other appropriate administrators or the body of faculty members, as required.

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

This report typically is three (3) to five (5) pages in length and 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 deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome letter. The Notice of Outcome will then be reviewed by legal counsel. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 5 business days of receiving the Decision-maker(s)' deliberation 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 specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University is permitted to share such information under state or federal law; any sanctions issued which the University is permitted to share according to state or federal law; and whether remedies will be provided to the Complainant to ensure access to the University's educational or employment program or activity.

The Notice of Outcome will also include information on when the results are 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.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 discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- 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 without an appeal being 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 are the usual sanctions that may be imposed upon students or organizations singly or

in combination:

- *Formal Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Restriction*: The temporary restriction on participation in University-sponsored programs and activities, access to University facilities, or other privileges for a defined period of time.
- *Required Counseling*: A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Disciplinary Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Dismissal*: Termination of student status for a defined period of time and/or until specific criteria are met.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University-sponsored events.
- *Withholding Diploma*: The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including University registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

#### **b. Employee Sanctions/Responsive Actions**

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

- *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*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Delay of tenure track progress*

- *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 sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

### **c. Tenured or Tenure-track Faculty Sanctions**

When a tenured or tenure-track faculty member has been found responsible for a policy violation that could result in a severe sanction or removal, a body of faculty members shall determine sanctions from a list provided by the Decision-maker. The Decision-maker shall provide their finding and rationale in writing to the body of faculty members along with 3 options for sanctioning. The body of faculty members shall choose from the 3 options and provide the Decision-maker in writing with their sanction and rationale one day after receiving the finding, rationale, and sanction options list from the Decision-maker.

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

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 with a dismissal, as the University no longer has disciplinary jurisdiction over the withdrawn student.

However, the University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University in any capacity. Admissions and Human Resources will be notified accordingly. Such exclusion applies to all campuses of the University.

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 University unless and until all sanctions, if any, have been satisfied.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends with dismissal, as the University no longer has disciplinary jurisdiction over the resigned employee.

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

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

### **36.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 5 business days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will Chair the appeal. No Decision-maker will have been involved in the process previously, including in any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Chair or designee for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

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

#### **a. Grounds for Appeal**

Appeals are limited to the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- 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.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair 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 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in the Policy by the Appeal Chair 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 5 business days, which will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly, in writing.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses, and the Appeal Chair will render a decision in no more than 5 business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

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 which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

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 above.

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

If the original sanctions include separation in any form, the University may place a hold on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal. The Respondent may request a stay of these holds from the Title IX Coordinator within two (2) business days of the notice of the sanctions. The request will be evaluated by the Title IX Coordinator or designee, whose determination is final.

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

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). 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.
- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- 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).
- The Appeal Chair may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker(s) for reconsideration.
- 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 an error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal Chair may order a new investigation with new investigators and/or a new hearing with a new Decision-maker(s).
- The results of a remand to a Decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, 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, recognizing that some opportunities lost may be irreparable in the short term.

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

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, 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.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the University to the Respondent to ensure no effective denial of educational access.

The University will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the University's ability to provide these services.

### **38.Failure to Comply with Sanctions 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).

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), including suspension, expulsion,

and/or termination from the University. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **39.Recordkeeping**

The University will maintain for a period of 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 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. The University will make these training materials publicly available on the University's website; and
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, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

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

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

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

Any student needing such accommodations or support should contact the Director of Accessibility and any employee needing such accommodations or support should contact the Office of Human Resources, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

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

This Policy and procedures apply to conduct that occurs on or after August 14, 2020. The policy and procedures in place at the time the conduct occurred shall apply to conduct that occurred prior to August 14, 2020.

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation for incidents occurring on or after August 14, 2020, 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 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 summer schedules. 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 laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14, 2020.

### **PROCESS B**

- Process B is applicable when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
- If Process A is applicable, Process A must be applied in lieu of Process B.
- The University can substitute any alternative process instead of Process B, if desired.
- VAWA Section 304 requirements apply to Process B or any alternative process for reports that fall under VAWA.
- Title IX requirements outside of Section 106.30 (based on the original 1975 regulations, the 2001 Revised Guidance, etc.) may also be applicable to Process B.

## **RESOLUTION PROCESS FOR ALLEGED CIVIL RIGHTS OFFENSES/DISCRIMINATION (KNOWN AS PROCESS B)**

### **1. Overview**

Fairfield University will act on any formal or informal allegation or notice of violation of the Sexual Misconduct Policy that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in the Policy above. All references herein to a Title IX Coordinator also include a designee of the Title IX Coordinator.

The procedures described below apply to allegations of Other Civil Rights Offenses/Discrimination as described in this policy including to alleged conduct to which Process A is does not apply.

Unionized or other categorized employees will be subject to the terms of their respective collective bargaining agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

## **2.Initial Assessment**

Following intake, receipt of notice, or a complaint of an alleged violation of the University's Sexual Misconduct Policy, the Title IX Coordinator engages in an initial assessment, which is typically one to five business days in duration. If circumstances require, the Vice President for Human Resources or Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

The steps in an initial assessment can include:

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a Supportive Response, and Informal Resolution, or an Administrative Resolution.
  - If a Supportive Response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. The Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.
  - If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
  - If Administrative Resolution is preferred, the Title IX Coordinator initiates the investigation process and determines whether the scope of the investigation will address:
    - Incident, and/or
    - A potential pattern of misconduct, and/or
    - A culture/climate issue.
- In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Threat Assessment Team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:
  - Interim suspension of a Respondent who is a threat to health/safety;
  - Whether the Title IX Coordinator should pursue Administrative Resolution absent a willing/able Complainant;
  - Whether to put the investigation on the footing of incident and/or pattern and/or climate;
  - To help identify potentially predatory conduct;
  - To help assess/identify grooming behaviors;
  - Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful;
  - Whether to permit a voluntary withdrawal by the Respondent;
  - Whether to impose transcript notation or communicate with a transfer University about a Respondent;

- Assessment of appropriate sanctions/remedies;
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.

Based on the initial assessment, the University will initiate one of these responses:

- Supportive Response – measures to help restore the Complainant’s education access, as described in the Policy.
- Informal Resolution – typically used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating policy. This can also include a remedies-only response.
- Administrative Resolution – investigation of policy violation(s) and recommended finding, subject to a determination by the Title IX Coordinator and the opportunity to appeal to an Appeal Decision-maker.

The investigation and the subsequent Administrative Resolution determine whether the Policy has been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator. At any point during the initial assessment or formal investigation, if the Title IX Coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

### **3.Resolution Process Team**

The resolution process relies on a team of officials for implementation.

#### **Investigators**

The Title IX Coordinator will appoint a previously designated and trained investigator to complete an investigation. All investigators – internal or external – will be selected from a group of qualified and trained individuals employed by the University or engaged by the University for the purpose of conducting investigations under the Sexual Misconduct Policy.

The Title IX Coordinator will provide the Parties with the name(s) of the person(s) assigned to investigate the reported conduct (the “Investigator(s)”) in the Notice of Investigation and Allegations. As soon as possible, but no later than three 3 business days after delivery of the identity of the Investigator(s), the Parties should inform the Title IX Coordinator (in writing) of any conflicts of interest with regard to the selected Investigator(s). The Title IX Coordinator will consider the nature of the conflict and determine if different individuals should be assigned as Investigator(s). The Title IX Coordinator’s decision regarding any conflicts is final.

#### **Advisors**

As described in the previous section on Advisors, the University maintains a pool of trained Advisors.

Parties are entitled to an advisor of their choice, but the Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the University, the Advisor will be trained by the University and be familiar with the University's resolution process.

#### Decision-makers

The Decision-maker in for alleged violations for which Process B is used shall be the Title IX Coordinator.

#### Appeal Decision-maker

The Appeal Decision-maker for student Respondents and student group, organizations and teams shall be the Vice President for Student Life, or their designee.

The Appeal Decision-maker for faculty Respondents shall be the Provost, or their designee.

The Appeal Decision-maker for staff Respondents shall be the Executive Vice President/Chief Operating Officer.

Upon notification of the Appeal Decision-maker's identity the parties must notify the Title IX Coordinator in writing within three (3) days of any conflict of interest with regard to the Decision-maker. The Title IX Coordinator will consider the nature of the conflict and determine if a different individual should be assigned as the Appeal Decision-maker. The Title IX Coordinator's decision regarding any conflicts is final.

Team members receive annual training organized by the Title IX Coordinator, including a review of University policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability.

The Team members receive annual training specific to their role. This training includes, but is not limited to:

- The scope of the University's Sexual Misconduct 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, timely, and impartial manner by individuals who receive training in conducting investigations of sexual harassment, trauma-informed practices, and impartiality
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- Types of evidence

- Deliberation
- How to render findings and generate clear, concise, evidence-based rationales
- 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 against or for Respondents and/or Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used
- 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 discrimination allegations

Specific training is also provided for Appeal Decision-makers, intake personnel, and Advisors.

#### **4.Counterclaims**

Counterclaims by the Respondent may be made in good or may instead be motivated by a retaliatory intent. The University is obligated to ensure that any process is not abused for retaliatory purposes.

The University permits the filing of counterclaims, but uses the initial assessment, described above in the Policy section, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation. Counterclaims made with retaliatory intent will not be permitted.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

#### **5.Advisors**

##### **a. Expectations of an Advisor**

The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned, but the University 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.

Parties whose Advisors are disruptive or who do not abide by University policies and procedures may face the loss of that Advisor and/or possible Policy violations.

Advisors are expected to consult with their advisees without disrupting University meetings or interviews. Advisors do not represent parties in the process; their role is only to advise.

#### **b. Expectations of the Parties with Respect to Advisors**

Each party may choose an Advisor who is eligible and available to accompany them throughout the process. The Advisor can be anyone, including an attorney, advocate or support person but should not be someone who is also a witness in the process. "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.

Witnesses are not entitled to Advisors within the process, though they can be advised externally. If the University allows more than one Advisor for one party, they will do so for all parties. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

The parties are expected to inform the Investigators of the identity of their Advisor at least two (2) business days before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired).

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

If a party requests that all communication only be made through their Advisor, the University will not comply with that request.

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

For parties who are entitled to union representation, the University will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are not permitted to have union representation or Advisors in grievance process interviews or meetings.

Upon written request of a party, the University will copy the Advisor on all communications between the University and the party.

At the discretion of the Title IX Coordinator, more than one Advisor may be permitted to the parties, upon request. For equity purposes, if one party is allowed another Advisor, the other party must be allowed one to as well.

## **6. Resolution Options**

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with University Policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose, but are encouraged to discuss with their Advisors first before doing so.

### **a. Informal Resolution**

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Alternate Resolution or when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails after the resolution is finalized, Administrative Resolution may be pursued.

#### **i. Alternate Resolution**

Alternate Resolution is an informal process, by which the parties mutually agree to resolve an allegation. It may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Administrative Resolution process (described below) to resolve conflicts. The parties must consent to the use of Alternate Resolution.

The Title IX Coordinator determines if Alternate Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternate Resolution.

In an Alternate Resolution, a trained administrator may facilitate a dialogue with the parties to an effective resolution, if possible. Institutionally-imposed sanctions are not possible as the result of an Alternate Resolution process, though the parties may agree to accept sanctions and/or appropriate remedies.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Alternate Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the Administrative Resolution process is completed should the parties and the Title IX Coordinator believe it could be beneficial. The results of Alternate Resolution are not appealable.

#### **ii. 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 accepts responsibility, the Title IX Coordinator makes a

determination that the individual is in violation of University Policy.

The Title IX Coordinator then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the Title IX Coordinator or designee has determined appropriate sanction(s) or responsive actions, which are promptly implemented, the process is over. The Complainant will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved. The parties will be informed of this outcome. The parties are still able to seek Alternate Resolution on the remaining allegations, subject to the stipulations above.

### **iii. Negotiated Resolution**

The Title IX Coordinator, with the consent of the parties, may negotiate and implement any agreement to resolve the allegations that satisfies all parties and the University.

### **b. Administrative Resolution**

Administrative Resolution can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by the Sexual Misconduct Policy that does not fall under Process A, at any time during the process. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Title IX Coordinator will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least 48 hours in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, 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 or designated email account.

Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notification should include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

The University aims to complete all investigations within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator, with notice to the parties as appropriate.



Once the decision is made to commence an investigation, the Title IX Coordinator appoints an Investigator or Investigator(s) to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

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, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Title IX Coordinator, concerns should be raised with the Vice President for Human Resources.

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

The University may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke the University's resolution process are being investigated by law enforcement. The University will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete.

University action(s) 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.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

## **7. Investigation**

The Investigators typically take the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct
- Assist the Title IX Coordinator with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action

- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
- Meet with the Complainant to finalize their statement, if necessary
- Work with the Title IX Coordinator to prepare the initial Notice of Investigation and Allegation (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of a University-provided Advisor or an Advisor of their choosing present for all meetings attended by the advisee
- When formal notice is being given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result
- Give an instruction to the parties to preserve any evidence that is directly related to the allegations
- Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- Interview all relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide the parties with a copy of the draft investigation report when it is completed
- Provide each party with a full and fair opportunity to respond to the report in writing within 5 business days and incorporate those responses, if any, into the report
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop
- Share the report with the Title IX Coordinator and/or legal counsel for review and feedback.
- Provide the final report to the decision-maker

## **8.Determination**

Within two to three days of receiving the final investigative report, the Title IX Coordinator reviews the report and all responses, and then makes the final determination on the basis of the preponderance of the evidence.

If the record is incomplete, the Title IX Coordinator may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The Title IX Coordinator may invite and consider impact statements from the parties if and when determining appropriate sanction(s), if any.

The Title IX Coordinator then timely provides the parties with a written Notice of Outcome to include findings, any sanction(s), and a detailed rationale, delivered simultaneously (without undue delay) to the parties

## **9. Additional Details of the Investigation Process**

### **a. Witness responsibilities**

Witnesses (as distinguished from the parties) who are faculty or staff of the University are expected to cooperate with and participate in the University's investigation and resolution process. Failure of a witness to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may be subject to discipline.

### **b. Remote processes**

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) and/or Decision-maker determine that timeliness, efficiency, or other causes dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this approach is not ideal. When remote technologies are used, the University makes reasonable efforts to ensure privacy, and ensures that any technology does not work to the detriment of any party or subject them to unfairness.

### **c. Recording**

No unauthorized audio or video recording of any kind is permitted during the resolution process including investigative interviews. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of the audio and/or video recording.

### **d. Evidence**

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct, subject to the limitation in (e) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

### **e. Sexual history/patterns**

Unless the Title IX Coordinator/Decision-maker determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern; (2) the irrelevant sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) irrelevant character evidence.

#### **f. Previous allegations/violations**

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Title IX Coordinator /Decision-maker with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanction(s).

Character witnesses or evidence may be offered. The investigation and hearing will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

#### **g. Notification of outcome**

If the Respondent admits to the violation(s), or is found in violation, the Title IX Coordinator, in consultation with other administrators as appropriate, determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively to stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Title IX Coordinator informs the parties of the determination within two to three business days of the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are 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 or designated email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which the University is permitted to share pursuant to state or federal law, and the rationale supporting the findings to the extent the University is permitted to share under state or federal law.

The notice will detail when the determination is considered final (See Section 11. Appeals below) and will detail any changes that are made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found below.

### **10.Sanctions**

Factors considered when determining any sanction(s)/responsive action(s) may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation

- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Title IX Coordinator/Decision-maker

The sanction(s) will be implemented as soon as is feasible. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

#### **a. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Formal Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Restriction*: The temporary restriction on participation in University-sponsored programs and activities, access to University facilities, or other privileges for a defined period of time.
- *Required Counseling*: A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Disciplinary Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Dismissal*: Termination of student status for a defined period of time and/or until specific criteria are met.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University-sponsored events.
- *Withholding Diploma*: The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including University registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

#### **b. Employee Sanctions/Responsive Actions**

Responsive actions for an employee who has engaged in harassment, discrimination, and/or

Retaliation include:

- *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*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Delay of tenure track progress*
- *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 sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

### **c. Tenured or Tenure-track Faculty Sanctions**

When a tenured or tenure-track faculty member has been found responsible for a policy violation that could result in a severe sanction or removal, a body of faculty members shall determine sanctions from a list provided by the Decision-maker. The Decision-maker shall provide their finding and rationale in writing to the body of faculty members along with 3 options for sanctioning. The body of faculty members shall choose from the 3 options and provide the Decision-maker in writing with their sanction and rationale one day after receiving the finding, rationale, and sanction options list from the Decision-maker.

### **11. Withdrawal or Resignation While Charges are Pending**

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, as the University no longer has disciplinary jurisdiction over the withdrawn student.

However, the University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University. Such exclusion applies to all campuses of the University. Admissions will be notified that they cannot be readmitted. They may also be barred from University property and/or events.

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 University unless and until all sanctions have been satisfied.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University no longer has disciplinary jurisdiction over the resigned employee.

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

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 and Human Resources will reflect that status.

All University responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

## **12. Appeals**

Appeal Decision-maker:

- The Appeal Decision-maker for student Respondents and student group, organizations, and teams shall be the Vice President for Student Life, or their designee.
- The Appeal Decision-maker for faculty Respondents shall be the Provost, or their designee.
- The Appeal Decision-maker for staff Respondents shall be the Executive Vice President/Chief Operating Officer, or their designee.

Upon notification of the Appeal Decision-maker's identity the parties must notify the Title IX Coordinator in writing within three (3) days of any conflict of interest with regard to the Decision-maker. The Title IX Coordinator will consider the nature of the conflict and determine if a different individual should be assigned as the Appeal Decision-maker. The Title IX Coordinator's decision regarding any conflicts is final.

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within 5 business days of the delivery of the written finding of the Title IX Coordinator. Any party may appeal the findings only under the grounds described below.

A single Appeal Decision-maker will Chair the appeal. Any party may appeal, but appeals are limited to the following grounds:

- Procedural irregularity that significantly affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

- 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.

When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies) or other appropriate persons such as the Investigator(s), who may file a response within five (5) business days. The other party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within 5 business days. These responses or appeal requests will be shared with each party. The Appeal Chair will review the appeal request(s) within 5 business days of completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the Appeal Chair dismisses the appeal.

When the Appeal Chair finds that at least one of the grounds is met by at least one party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Chair are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for the Appeal Chair/Panel to substitute their judgment for that of the original Investigator(s) or original Decision-maker merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigator(s) for reconsideration. Other appeals should be remanded at the discretion of the Appeal Chair.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX Coordinator stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
  - For students: Graduation, study abroad, internships/ externships, etc., do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- All parties will be informed in writing within 5 business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.
- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand.
- In rare cases when a procedural or substantive error cannot be cured by the original Investigator(s) and/or original Decision-maker (as in cases of bias), the Appeal Chair may recommend a new investigation and/or Administrative Resolution process, including a new resolution administrator.
- The results of a new Administrative Resolution process can be appealed once, on any of the three applicable grounds for appeals.
- In cases in which the appeal results in Respondent's reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to



their prior status, recognizing that some opportunities lost may be irreparable.

### **13. Long-Term Remedies/Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its 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 community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- 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, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedial requirements owed by the University to the Respondent.

### **14. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions**

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Title IX Coordinator.

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)/responsive/corrective action(s), including suspension, expulsion, and/or termination from the University.

### **15. Recordkeeping**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept indefinitely, or as required by state or federal law or institutional policy, by the Title IX Coordinator in the Title IX case database.

## **16. Disabilities Accommodation in the Resolution Process**

Fairfield University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process at the University. Anyone student needing such accommodations or support should contact the Office of Accessibility, and any employee needing such accommodations or support should contact the Office of Human Resources, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

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

This Policy and procedures apply to conduct that occurs on or after August 14, 2020. The policy and procedures in place at the time the conduct occurred shall apply to conduct that occurred prior to August 14, 2020.

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, 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 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 summer schedules. 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.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14, 2020.

Modified from: ATIXA 2020 One Policy, Two Procedures Model.

Use and adaptation of this model with citation to ATIXA is permitted through a limited license to Fairfield University. All other rights reserved. ©2020. ATIXA

## **What if I suspect a “date rape” drug was used?**

At the hospital there are tests that can detect the presence of a date rape drug in your blood and urine. Although these drugs leave your body quickly, tests can detect the drugs as much as 72 hours after they are ingested.

## **What will happen at court if a student proceeds with a criminal complaint?**

Arrests are made when “probable cause” is established to show that the incident happened in the manner you have reported. This is separate from the student conduct process, where it must be shown that it is “more likely than not” the incident occurred.

## **What do I do if I think my friend is in an intimate partner relationship and has experienced domestic violence?**

Seek advice from Counseling & Psychological Services or The Center for Family Justice Domestic Violence Hotline at 203-384-9559. Public Safety can offer help if you or your friend is in immediate danger.

What to look out for:

- Signs of physical violence, such as bruising or bite marks
- Strong sense of jealousy by the offender
- Signs of fear or isolation from your friend

Support your friend by encouraging them to seek help and to participate in activities outside of the relationship. Let them know that you will be there for them no matter what.

## **Confidential On Campus**

Counseling & Psychological Services	203-254-4000, ext. 2146
24/7 Counselor on call	203-254-4090
Clergy	203-254-4000, ext. 2687
Student Health Center	203-254-4000, ext. 2241

## **Confidential Off Campus**

The Center for Family Justice	203-333-2233 (24/7) (sexual assault hotline)
	203-384-9559 (24/7) (domestic violence hotline)
Triangle Community Center	203-853-0600
Español Hotline	1-888-568-8332 (24/7)

## **Non-Confidential On Campus**

Public Safety	203-254-4090 (24/7)
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Senior Director, Title IX and Equity Compliance  
Dylan Gordon  
203-254-4357  
[Equity@Fairfield.edu](mailto:Equity@Fairfield.edu)

Office of the Dean of Students	203-254-4211
Campus Ministry	203-254-4000, ext. 3405
Office of Human Resources	203-254-4000, ext. 2277 (employees only)

## **Non-Confidential Off Campus**

Connecticut State Police	860-685-8190
Fairfield Police Department	911 or 203-254-4800 (24/7)

## **Know your Rights**

You have the right to be treated with dignity and respect. You have the right to refuse to answer questions if you are uncomfortable sharing. You have the right to request that someone be with you during an examination or while filing a report. You have the right to choose whether you want to file a report.

*Information and Resources for  
you or someone you know who  
has been the victim of*

# **Sexual Assault and Intimate Partner Violence and Stalking**

**It's hard to know what to do after experiencing sexual violence.** You may be hurting, in denial, in shock or unsure what to do next. You may consider reporting, but don't know where to begin. Learning more about what steps you can take following sexual violence can ensure that you get the support you need when you or a friend needs it most.

Prepared by Fairfield University  
in collaboration with the Fairfield Police Department

## ***Who can I talk to if I think I have been sexually assaulted? (or experienced a form of sexual misconduct such as gender-based harassment, stalking, intimate partner violence, sexual harassment.)***

Please know that sexual assault is not your fault and there are resources available to help you. Get to a safe place immediately, talk to a confidential resource, seek medical care and consider reporting. You are encouraged to contact the Title IX Coordinator or any of the confidential resources listed on the back panel for support, direction and guidance. If you are in immediate danger, call Public Safety. They can connect you with a University Counselor 24/7.

**Note:** Students under the age of 21 who have been drinking will receive amnesty when seeking help after an assault. Students who are undocumented may seek services and apply for amnesty through the U-Visa.

## ***What if the alleged individual is a friend or classmate?***

Based on statistics, most sexual assaults are committed by someone you met in class, at a party, or through a friend. You may feel pressure from mutual friends to not file a report, or you might fear getting the accused in trouble, but all forms of sexual misconduct are against University policy. Even if you choose to report to the University, the choice to pursue criminal charges is up to you.

## ***If I am a survivor of intimate partner or sexual assault, can I call the police?***

Yes. You can call the local police where your assault occurred. In the town of Fairfield, you can call Fairfield Police or State Police (see numbers on back panel). Public Safety can help you contact the appropriate agency. If the police are notified, it is up to you whether to proceed with a complaint or an investigation. Call the Fairfield Police Department Detective Bureau at **203-254-4840** if you want to talk to someone about your options.

## ***What will happen if I go to Public Safety?***

Public Safety can help if you are in immediate danger and can refer you to the 24/7 counselor on call. Public Safety can also assist you in filing a report.

If you file a report at Public Safety, you are welcome to have a friend or trained crisis counselor present. Public Safety can also assist you in notifying Fairfield Police. Fairfield Police will contact you or your friend to talk about options outside of the student conduct process. You are encouraged to write down any details you remember and save any evidence, such as text or social media messages and photos, in the case you want to file a complaint a later time. You have the authority to withdraw a complaint at any time.

## ***If I make a report or seek help, is it confidential?***

It depends. See the back panel for a list of confidential and non-confidential resources.

If you wish to file a report or seek help from Public Safety, the police, or a resident assistant, the disclosure will be private between all necessary professional personnel, such as the Title IX Coordinator, Dean of Students, and other necessary participants in the student conduct process. If at any point you wish to withdraw a complaint and maintain confidentiality, you can. The University has an obligation to continue to investigate to determine patterns and larger risks within the community. If there appears to be a threat to campus, a campus-wide notification will be made regarding an incident of sexual or domestic violence. All measures will be taken to maintain privacy. In some cases when incidents of domestic violence, sexual assault, threats of violence, or stalking have been reported to Fairfield Police, they have to act to ensure the safety of the victim.

Federal and state laws protect the identity of survivors of sexual assault. Your name will not be released to the media. Please notify the Title IX Coordinator or any other professional staff if you feel your privacy or confidentiality have been compromised.

## ***Why should I seek medical attention?***

The decision to go to the hospital is entirely yours. If you have been assaulted, either by force, coercion, or by a non-violent offense, seeking medical attention is recommended. An evidence collection kit examination is offered as part of the medical assessment in cases of sexual assault. Although it's natural to want to after a traumatic experience, try to avoid activities that could potentially damage evidence such as bathing, showering, changing or washing your clothes, or urinating prior to the exam. If you have done any of these activities, you can still have an exam performed. You will also be evaluated for risk of pregnancy and sexually transmitted infection. Prophylactic medication may be prescribed.

Even if you think there is no evidence from the assault, an evidence collection kit may discover something and can be administered up to 120 hours (five days) after the assault. A Sexual Assault Nurse Examiner will perform the procedure, and the exam will collect any evidence that may remain on the body or clothing and assist in the identification or conviction of an offender.

You don't have to report the crime to have an exam, but the process gives you the chance to safely store evidence should you decide to report at a later time. Similarly, in addition to physical evidence, digital evidence like photographs and text messages should also be preserved.

If you wish, a crisis counselor will meet you at the local hospital to support you throughout the process. The examination will not cost anything. Any expenses incurred are paid for by the State of CT through the Office of Victim Services Crime Victim Compensation program.

## ***What if I was assaulted days ago and didn't tell anyone?***

You can discuss your options, seek help with confidential resources and report the assault at any time to the Title IX Coordinator or Public Safety.

## ***If I file a report and choose to proceed with an investigation, what else can I expect?***

A full description of the University's policies and processes for dealing with sexual assault, intimate partner violence, and sexual misconduct can be found in the Student Handbook at [fairfield.edu/studenthandbook](http://fairfield.edu/studenthandbook). If reasonably available, you will be afforded the opportunity to request immediate on-campus housing relocation, transfer of classes, or other steps to prevent unnecessary or unwanted contact or proximity to the alleged accused. The provision of such accommodations does not constitute a determination of responsibility, but rather is offered to assist you, the reporting party.

## ***How can I help as a friend?***

If your friend shares with you that they have survived a sexual assault, it's important to keep this information private and encourage them to get help immediately. Offer to assist them in seeking help. Contact Counseling & Psychological Services, or the Office of the Dean of Students to assist you with the referral process. They can help you talk to your friend about options and resources available, both at Fairfield University and in the greater community.

As a friend, you may experience secondary trauma. There are resources for you through Counseling & Psychological Services and The Center for Family Justice hotline. Know that sexual assault is the fault of the offender, not your friend.

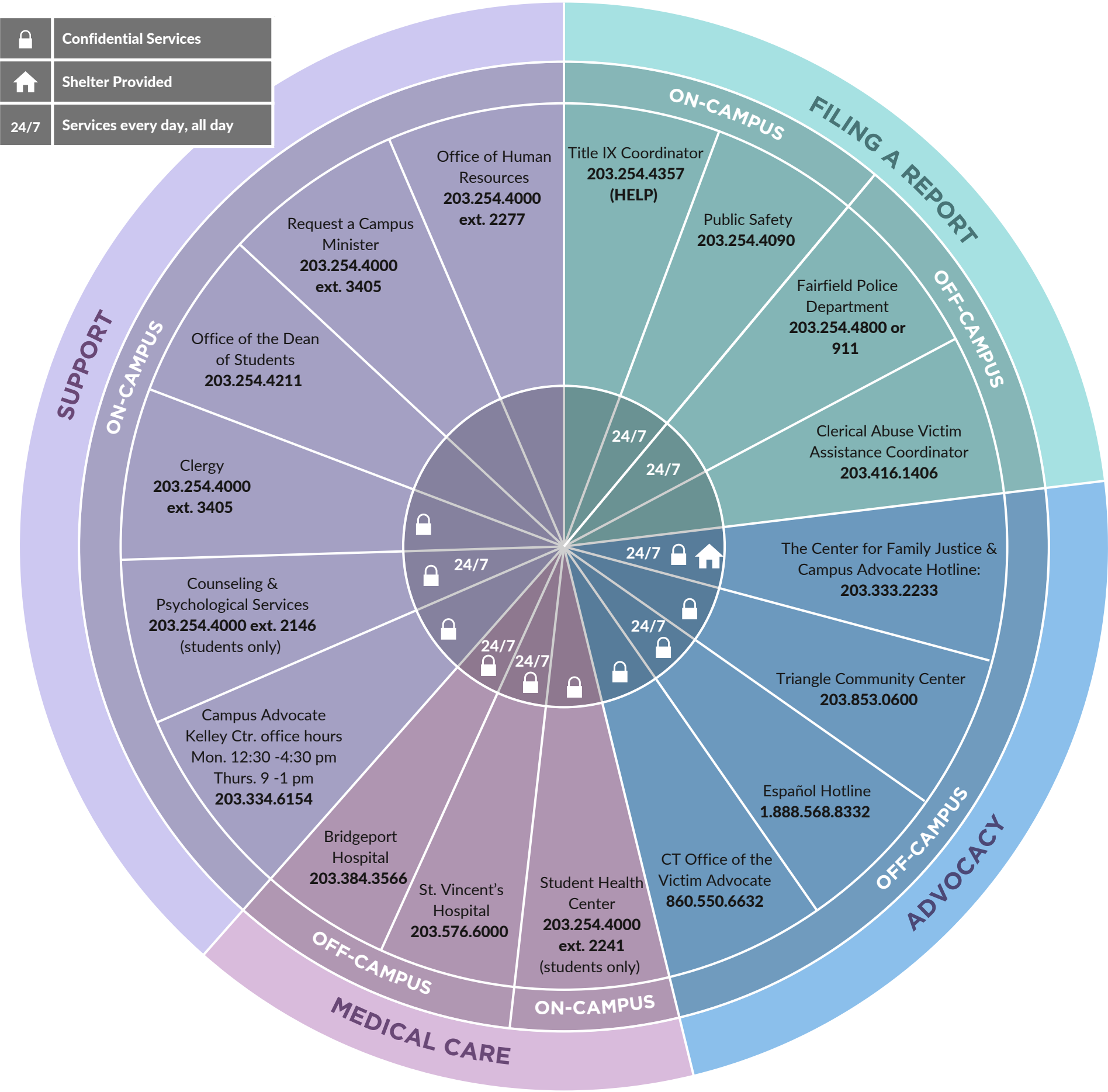
If your presence is helpful to the survivor, you are welcome to accompany them when seeking counseling and support services, medical attention, or filing a report.

Support your friend by validating their feelings about the experience. Listen and provide comfort without judgment. Do not question the survivor for more details. Stay attuned to the survivor's feelings and don't assume or dictate how they must feel. Encourage your friend to seek help.

# If you or someone you know has been a victim of Sexual Assault, Intimate Partner Violence or Stalking:

- Get to a safe place
- Seek medical care
- Connect with someone
- Consider your options

There are many Fairfield University and Community Resources to help.



## KNOW WHERE TO GO

### About Sexual Assault, Intimate Partner Violence and Stalking

If you need help, there are many Fairfield University and community resources to support you or help you file a report. Use the QR code for more information and resources.



**Fairfield**  
UNIVERSITY

Counseling &  
Psychological Services