



<b>Policy Owner:</b>	Dean of Students and Human Resources Office
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**Salve Regina University Title IX Sex Discrimination and Sexual Harassment Policy & Grievance Procedures**

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## I. Notice of Nondiscrimination

Salve Regina University (hereinafter “University”) does not discriminate on the basis of sex and prohibits Sex Discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

## II. Purpose of Policy

This policy (hereinafter “Policy”) prohibits Sex Discrimination (which includes Sexual Harassment such as Gender-Based Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking), in addition to Retaliation, as defined herein.

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

This Policy is in accordance with Title IX of the Education Amendments of 1972; relevant provisions of the Violence Against Women Reauthorization Act of 2013; Title VII of the Civil Rights Act of 1964; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; their implementing regulations; and other applicable federal and Rhode Island state laws and regulations.

Inquiries about Title IX may be referred to the University’s Title IX and Anti-Discrimination Coordinator, Jonathan Cook, [Jonathan.cook@salve.edu](mailto:Jonathan.cook@salve.edu), (401) 341-2640. To report information about conduct that may constitute Sex Discrimination or make a complaint of Sex Discrimination under Title IX, please contact the University’s Title IX and Anti-Discrimination Coordinator or other designated individuals

identified in Section # herein [include link to location(s) on website or otherwise describe location(s)].

The University's nondiscrimination policy and grievance procedures are located at <https://salve.edu/document/anti-discrimination-policy-and-grievance-procedures>.

Concerns about the University's application of this Policy may also be addressed to the United States Department of Education, Office for Civil Rights, at [OCR@ed.gov](mailto:OCR@ed.gov) or (800) 421-3481 or the Rhode Island Commission for Human Rights.

### **III. Applicability and Scope of Title IX Policy**

#### **a. Application and Jurisdiction**

This Policy applies to all University community members, including all employees and students. To be adjudicated under this policy and grievance procedures as a Title IX Complaint, the alleged behavior must reasonably implicate the definition of Sex Discrimination as defined in Section IV below. This Policy applies to conduct that occurs on the University premises, at University-sponsored activities, or within University online educational and/or co-curricular environments. This includes but is not limited to online academic classes as well as online activities and programs. This Policy also applies to behavior conducted online- including but not limited to blog postings, social media posts, chats, etc. Online postings can subject a University community member to allegations of Title IX violations if evidence of a Policy violation is posted online. It also applies to off-campus conduct that adversely affects the University community and/or the pursuit of its objectives.

This Policy applies to conduct by University employees that occurs within the University's programs or activities and to the continuing effects on an individual of behavior that occurred outside the University's programs or activities.

#### **b. Determination of Policy Application**

All reports and Complaints of Sex Discrimination will be assessed by the Title IX and Anti-Discrimination Coordinator to determine if the allegations implicate the definition of Sex Discrimination and are appropriately within the jurisdiction of the University pursuant to Title IX.

If the alleged behavior would not implicate the definition of Sex Discrimination, even if proven, or if it falls outside the jurisdiction of the University, it will be assessed to determine if it implicates the Student Code of Conduct, or an Employee Policy, and the appropriate office will address the matter, if applicable.

The determination of whether an allegation implicates this Policy is within the discretion of the Title IX and Anti-Discrimination Coordinator. The University is not required to follow this Policy and related procedures upon being notified of conduct that may constitute Sex Discrimination if the Title IX and Anti-Discrimination Coordinator reasonably determines that the conduct as alleged could not constitute Sex Discrimination, including when the alleged incident is not within the jurisdiction of the University (including where a party to the alleged incident is not within the jurisdiction of the University). Determinations that a Complaint (defined in Section V below) does not implicate this Policy are subject to an appeal right, set forth in Section XIV(c)(ii) below.

#### **c. With the understanding that some cases may present unique information, the Title IX and Anti-**

Discrimination Coordinator has the discretion to modify or adjust the Policy and the Procedures in cases where the Title IX and Anti-Discrimination Coordinator reasonably determines such modification or adjustment is necessary and appropriate to properly effectuate the intent and scope of the Policy and Procedures.

#### IV. Definitions of Prohibited Conduct

**Sex Discrimination.** Sex Discrimination (also referred to as “Sex-Based Discrimination”) is conduct on the basis of sex including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that limits or denies a person’s ability to participate in or benefit from the University’s education program or activity. Sex-based discrimination includes the following:

##### a. Discriminatory Conduct

**Discriminatory Conduct** is a form of Sex Discrimination and means conduct on the basis of sex (also referred to as “Sex-Based Discrimination”) including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that limits or denies a person’s ability to participate in or benefit from the University’s education program or activity.

Examples of Discriminatory Conduct include:

- Denying someone a promotion or refusing to hire someone based on their sex or pregnancy status
- Giving a student a bad grade based on their sexual orientation or gender identity
- Refusing to comply with a pregnant student’s pregnancy accommodations
- Failure to comply with the University’s Pregnancy Policy
- Giving students of one gender preferred treatment or special attention

##### b. Sexual Harassment

Sexual Harassment is a form of Sex Discrimination and means severe or pervasive harassment on the basis of sex (also referred to as “Sex-Based Harassment”), including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- i. **Quid pro quo harassment.** An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under The University’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
- ii. **Hostile environment harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from The University’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  1. The degree to which the conduct affected the Complainant’s ability to access the recipient’s education program or activity;
  2. The type, frequency, and duration of the conduct;

3. The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
4. The location of the conduct and the context in which the conduct occurred; and
5. Other Sex-Based Harassment in the recipient's education program or activity.

Examples of Hostile Environment Sexual Harassment may include, but are not limited to:

- Unwanted sexual innuendo, propositions, sexual attention or suggestive comments and gestures;
- Inappropriate humor about sex or gender-specific traits, sexual slurs or derogatory language directed at another person's sexuality, gender, gender identity, sexual orientation or gender expression;
- Insults and threats based on sex, gender, gender identity, sexual orientation or gender expression;
- Oral, written or electronic communications of a sexual nature that an individual communicates is unwanted and unwelcome.
- The display or distribution of sexually explicit drawings, pictures, or written or electronic materials;
- Sexually charged name-calling, or the circulation, display, or creation of e-mails, text or social media messages, or web sites of a sexual nature.
- Display or circulation of written or electronic materials or pictures degrading to an individual or gender group where such display is not directly related to academic freedom, or to an educational/pedagogical, artistic, or work purpose.
- Unwelcome physical contact or suggestive body language, such as touching, patting, pinching, hugging, kissing, or brushing against an individual's body.
- Physical coercion or pressure of an individual to engage in sexual activity, or punishment for a refusal to respond or comply with sexual advances.
- Any act committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, personal benefit or advantage or any other illegitimate purpose. This may include observing another person's nudity or sexual activity, recording or photographing another person's nudity or sexual activity without Consent, disseminating a recording or photograph of another person's nudity or sexual activity without consent, or inducing incapacitation of another without their knowledge for the purpose of causing incapacitation or impairment to allow another person to engage in behavior prohibited under this Policy.

### iii. **Sexual Violence**

1. **Sexual Assault** means physical sexual acts without Consent. Physical sexual acts include, but are not limited to, vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact. It includes causing another person to engage in physical sexual acts towards the Respondent or others without the Consent of the individual engaging in the physical sexual acts. This definition includes rape, sexual assault, sexual battery, sexual assault with an object, sodomy, and sexual

coercion and includes assault with the specific intention to commit such an act. This conduct is often referred to as “sexual assault” under federal guidance.

2. **Fondling** means touching of the breasts, buttocks, or genitals of another, or causing an individual to engage in such acts towards the Respondent or others, in a sexual manner, without Consent, and for the purpose of sexual arousal or gratification, and.
3. **Incest** is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
4. **Statutory Rape** is nonforcible sexual intercourse with a person who is under the statutory age of consent.
5. **Consent** is a clear, informed, and voluntary agreement to engage in specific sexual activity.

Consent to one type of sexual activity does not equal consent to other types of sexual activity. Consent can be withdrawn at any point during sexual activity and the sexual activity must stop immediately; withdrawals of Consent must be clear such that a reasonable person in the Respondent’s position would understand that Consent has been withdrawn. A verbal “no” establishes lack of consent. Silence, without clear actions demonstrating permission, cannot be assumed to indicate consent—the absence of “no” does not equal “yes.” Consent cannot be obtained by coercion, force, or threat. Consent cannot be given by someone if they are mentally or physically incapacitated.

In determining whether Consent was present, the decision-maker will consider what a reasonable person in the Respondent’s shoes would have known and understood.

6. **Incapacitation** is a state where an individual is temporarily or permanently impaired to the extent where that person can no longer make a rational and informed decision to consent to sexual activity. Incapacitation may be caused by mental or physical disability, or when a person has consumed alcohol or other drugs, including prescribed medication. Individuals who are asleep or unconscious are incapacitated. A person who does not comprehend the “who, what, when, where, why or how” of a sexual interaction may be incapacitated.

Evidence of incapacitation may include but is not limited to: stumbling or shaky equilibrium, vomiting, slurred speech, bloodshot eyes, smell of alcohol, extreme, reckless or unusual behavior, or unconsciousness (for short or long periods of time).

7. **Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force can include intimidation or implied threats to overcome an individual’s resistance or produce consent. There is no requirement that a party resist the sexual advance or request, but resistance is a clear demonstration of non-consent.
8. **Coercion** is unreasonable, sustained, and extreme pressure for sexual activity that overcomes a person’s will. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get Consent from another. When someone makes it clear that they do not want sex, 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 may be coercive.
9. **Intimidation** is defined as overt or implied threats or acts that would cause reasonable fear of harm in another.

iv. **Relationship Violence**

1. **Dating violence** meaning violence committed by a person: Who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - A. The length of the relationship;
  - B. The type of relationship; and
  - C. The frequency of interaction between the persons involved in the relationship.
2. **Domestic violence** meaning felony or misdemeanor crimes committed by a person who:
  - A. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
  - B. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - C. Shares a child in common with the victim; or
  - D. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
3. **Stalking** meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - A. Fear for the person's safety or the safety of others; or
  - B. Suffer substantial emotional distress.

- v. **Retaliation** means intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy or Title IX, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Policy. However, the prohibition against Retaliation does not prevent the University from requiring an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing pursuant to this Policy.

**V. Additional Definitions**

a. **Complainant** means:

- A student or employee of the University who is alleged to have been subjected to conduct that could constitute Sex Discrimination; or
- A person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute Sex Discrimination at a time when that individual was participating or attempting to participate in the University's education program or activity.

In addition, with respect to complaints of Sex Discrimination *other than Sex-Based Harassment*, the

following persons also have the right to make a complaint:

- Any student or employee of the University;
- Any person other than a student or employee who was participating or attempting to participate in the University's education program or activity at the time of the alleged Sex Discrimination.

- b. **Complaint** means an oral or written request to the recipient that objectively can be understood as a request for the University to investigate and make a determination about alleged discrimination under Title IX or its regulations.

The following people have a right to make a Complaint of Sex Discrimination, including Complaints of Sex-Based Harassment, requesting that the University investigate and make a determination about alleged discrimination under Title IX:

- A Complainant (defined above);
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- the University's Title IX and Anti-Discrimination Coordinator.

Note that a person is entitled to make a Complaint of Sex-Based Harassment only if they themselves are alleged to have been subjected to the Sex-Based Harassment, if they have a legal right to act on behalf of such person, or if the Title IX and Anti-Discrimination Coordinator initiates a Complaint.

The University will not consider inquiries about the Policy and options, by themselves, to constitute a "request for the University to investigate and make a determination about alleged discrimination" or a Complaint. The University will communicate, as appropriate and feasible, with a potential Complainant (defined above) to confirm whether a Complaint is being filed prior to the University initiating a process under this Policy.

- c. **Consolidation** means bringing together matters and addressing them in a coordinated manner.

The University may consolidate Complaints of Sex Discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of Sex Discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a party, Complainant, or Respondent include the plural, as applicable.

- d. **Complicity** means any act taken with the purpose of aiding, facilitating, promoting, or encouraging the commission of a violation of this Policy by another person.
- e. **Concerted Activity** means where two or more individuals knowingly and intentionally act in concert to engage in behavior prohibited under this Policy and engage in such behavior together or individually.
- f. **Disciplinary Sanctions** means consequences imposed on a Respondent following a determination at the conclusion of the grievance procedures that the Respondent violated the Policy.
- g. **False Allegation** means where an individual knowingly and intentionally makes an allegation of Sex Discrimination that is in bad faith, dishonest, and untrue.

An allegation is not considered a False Allegation solely because of certain factors including: the



Respondent denies the allegations against them, the grievance process results in a finding of not responsible, the Complaint is dropped, the alleged victim does not file a Complaint, and the Title IX and Anti-Discrimination Coordinator dismisses the Complaint or declines to pursue the report.

The Title IX and Anti-Discrimination Coordinator has the discretion to determine how and when to address allegations or Complaints of a False Allegation. False Allegations may be addressed through the Policy or Student Code of Conduct.

- h. **Party** (plural, **Parties**) means a Complainant or Respondent.

When a Party is both a student and an employee of the University, the University will make a fact-specific inquiry to determine whether the matter falls under Sex Discrimination or Sexual Harassment. In making this determination, the University will, at a minimum, consider whether the party's primary relationship with the University is to receive an education and whether the alleged Sex-Based Harassment occurred while the party was performing employment-related work.

- i. **Preponderance of the Evidence** standard is met if the greater weight of the evidence demonstrates that it is 'more likely than not' that a violation has occurred.
- j. **Relevant** means related to the allegations of Sex Discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged Sex Discrimination occurred.
- k. **Respondent** is an individual who has been reported to be the perpetrator of conduct that is prohibited under this Policy. The University presumes that the Respondent is not responsible for the alleged Sex Discrimination until a determination is made at the conclusion of the grievance procedures.

## VI. Academic Freedom

This Policy is not meant to restrict or prohibit academic discussion or the sharing of information that is germane to the subject matter of a particular course curriculum even if such discussion or information involves controversial or sensitive subject matters.

## VII. Conflicts of interest, Bias, and Impartiality

- a. The Title IX and Anti-Discrimination Coordinator(s), Investigator(s), Decision-Maker(s), and Facilitator(s) of Informal Resolution Processes will receive training required by Title IX.
- b. The Title IX and Anti-Discrimination Coordinator(s), Investigator(s), Decision-Maker(s), and Facilitator(s) of informal resolution processes may not have a conflict of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent and will make all reasonable efforts to ensure the formal Complaint grievance process is facilitated in an impartial manner.
- c. The parties are expected to promptly report concern(s) regarding conflict of interest or bias regarding the above listed personnel to the Title IX and Anti-Discrimination Coordinator as soon as reasonably possible once they become aware of the conflict of interest or bias. Upon receiving a report of conflict of interest or bias, the University will evaluate the report, and if it is determined that a conflict of interest or bias exists, the University will appoint another individual to serve in the role.

- d. The University presumes that the Respondent is not responsible for the alleged Sex Discrimination until a determination is made at the conclusion of its grievance procedures.

## **VIII. Confidentiality**

### **a. University Confidentiality:**

- i. The University will make all reasonable efforts to keep confidential the identity of any individual who has made a report or filed a formal Complaint of Sex Discrimination pursuant to this Policy, any individual who has been reported to be the perpetrator of Sex Discrimination, any Respondent, or any witness. The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.
- ii. The University may reveal confidential information as permitted or required by law to carry out the purposes of this Policy, including conducting any investigation, live hearing, or proceeding arising thereunder.
- iii. If the University becomes aware of a serious and continuing threat to the campus community, the University may issue a timely warning in accordance with federal regulation to protect the health or safety of the community and may publish a reported incident in the daily crime log or annual security report. In addition, the University may also share non-identifying information, including data about outcomes and sanctions. The University will not disclose the name or other personally identifiable information of the Complainant unless it has received the express consent of the Complainant or unless the release of such information is consistent with legal requirements or mandated by law.
- iv. Certain types of Sexual Harassment are considered crimes for which the University must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. In these instances, the University will continue to complete publicly available recordkeeping in accordance with relevant laws, including the Clery Act reporting and disclosures, without the inclusion of personally identifying information about the Complainant.

### **b. Parties' and Advisors' Confidentiality.**

- i. The University will not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. However, outside of these permitted activities, Parties may not discuss a matter, share evidence or reports, discuss what was shared in an investigation or occurred during a hearing, share information related to an Informal Resolution, or otherwise disclose information and evidence obtained solely through the grievance procedures.
- ii. Parties, their advisors, family members, and confidential resources, are not permitted to 1) share information and evidence obtained solely through the grievance procedures outside of the permitted activities or 2) download any materials without the written permission of the University.
- iii. The University will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Note: disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Sex Discrimination are authorized.

- iv. Failure to comply with this provision may constitute retaliation and a failure to comply with University directives. The Title IX and Anti-Discrimination Coordinator will assess reports of violations to determine whether the report to process the report pursuant to this Policy or to refer it to Student Conduct.

## **IX. Amnesty for Students**

- a. The health and safety of every student at the University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that an incident of Sexual Harassment occurs, including, but not limited to, domestic violence, dating violence, stalking, or sexual assault, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The
- b. The University strongly encourages students to report incidents of Sexual Harassment to University officials. A bystander acting in good faith, or a reporting individual acting in good faith (including a Complainant), who discloses any incident of Sex Discrimination to University officials or law enforcement will not be subject to a University code of conduct action for violations of alcohol - and/or drug-use policies occurring at or near the time of the commission of the incident of Sexual Harassment.

## **X. Options for Reporting Prohibited Conduct**

- a. Reporting Procedure
  - i. All persons are strongly encouraged to report incidents of Sex Discrimination to the Title IX and Anti- Discrimination Coordinator. The Title IX and Anti-Discrimination Coordinator is available to offer supportive measures and resources and to answer questions about the University's policy and grievance procedures.
  - ii. Employees who have information about conduct that reasonably may constitute Sex Discrimination must report such information to the Title IX and Anti-Discrimination Coordinator. An employee who fails to make a report to the Title IX and Anti-Discrimination Coordinator may be subject to disciplinary action.
  - iii. Confidential employees must explain the following to any person who informs the confidential employee of conduct that reasonably may constitute Sex Discrimination:
    - 1. the employee's status as confidential for disclosures of Sex Discrimination, including the circumstances in which the employee is not required to notify the Title IX Coordinator and Anti-Discrimination Coordinator about conduct that reasonably may constitute Sex Discrimination;
    - 2. How to contact the University's Title IX Coordinator and Anti-Discrimination Coordinator and how to make a Complaint of Sex Discrimination; and
    - 3. That the Title IX Coordinator and Anti-Discrimination Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the Policy.
  - iv. Any person (whether or not the person reporting is the person alleged to be the Complainant) may report Sex Discrimination at any time using the University's online reporting form found at [https://salve-advocate.symplicity.com/titleix\\_report/index.php/pid851717](https://salve-advocate.symplicity.com/titleix_report/index.php/pid851717), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX and Anti-

Discrimination Coordinator in Appendix A, or by any other means that results in the Title IX and Anti-Discrimination Coordinator receiving the person's verbal or written report. For purposes of this Policy,

- v. A Complainant may request that the University not investigate and/or adjudicate the report under the formal Complaint procedures described herein. The University will make all reasonable efforts to honor the request. However, in certain circumstances, the University may have to pursue a formal Complaint. These circumstances include, but are not limited to, instances when the University has received multiple reports of misconduct by the same individual or when the conduct reported poses a compelling risk to the health and safety of members of the University community, which includes the Complainant.
- vi. Upon receiving a report of Sex Discrimination, if the Respondent is unknown or is not a faculty, staff, or student member of the University, the Title IX and Anti-Discrimination Coordinator will make all reasonable efforts to provide the Complainant with supportive measures, as well as information and options regarding potential criminal processes. The Title IX and Anti-Discrimination Coordinator may also take appropriate actions to protect the Complainant, such as providing assistance in obtaining no-trespass and restraining orders. If requested, the University will assist in filing/applying for orders of protection, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

b. Option of Confidential Reporting

Individuals may speak confidentially with Health and Counseling Services employees, University chaplains, and other off-campus resources in accordance with law. An employee is considered a confidential employee for the purposes of this Policy if, at the time of a disclosure or discussion by an individual about conduct that reasonably may constitute Sex Discrimination, the employee is acting in the role of a confidential employee as part of their job descriptions and responsibilities at the University.

If an individual reports conduct that reasonably may constitute Sex Discrimination under this Policy to a University confidential resource, the on-campus confidential employee will let that individual know 1) that the confidential employee is confidential and that they are not required to tell the Title IX and Anti-Discrimination Coordinator or police about conduct that reasonably may constitute Sex Discrimination, except as required by law, 2) how to contact the Title IX and Anti-Discrimination Coordinator, and 3) that the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an informal resolution process or an investigation under the Policy.

c. Option of Reporting to Law Enforcement

- i. Individuals who have experienced criminal violations are encouraged to report the incident to local law enforcement and have the option to do so. Formal reporting options include contacting the police department in the jurisdiction in which the incident occurred. If a Complainant chooses to report to law enforcement or pursue a criminal process, the Complainant may simultaneously pursue a Complaint under this Policy. Individuals are advised that if there is concurrent law enforcement activity, the University may temporarily delay its investigative or adjudicative process.
- ii. The University can provide Complainants with information and support in the process of reporting criminal conduct to law enforcement.

iii. Regarding the involvement of law enforcement, the Complainant has several options, including: (1) to notify law enforcement authorities; (2) to be assisted by campus authorities in notifying law enforcement authorities if the Complainant chooses; or (3) to decline to notify such authorities. The University will comply with the Complainant's request for assistance in notifying law enforcement to the extent it is consistent with law. The Complainant's choice to report to law enforcement will not impact the provision of supportive measures.

d. Anonymous Reporting

Any individual may submit an anonymous report any time using the online reporting form found on the University's online form located at [https://salve-advocate.symplicity.com/titleix\\_report/index.php/pid851717](https://salve-advocate.symplicity.com/titleix_report/index.php/pid851717). You may choose to make an anonymous report if you want the University to be aware of your experience or someone else's experience, but do not want to be involved in an administrative investigation. An individual may report an incident without disclosing their name or identifying the alleged perpetrator (the "Respondent"). Depending on the extent of information provided by the reporter, the University's ability to respond to an anonymous report may be limited. For example, if a third party or anonymous report does not identify the alleged victim and/or Respondent, the University may not be able to initiate a grievance process or provide supportive measures.

e. Student and Employee Reporting Procedures related to Health Service Professionals and Athletic Trainers.

Section 1557 of the Affordable Care Act (ACA) prohibits sex discrimination in applicable health programs and activities, including the University's Health Service Professionals and Athletic Trainers. We strongly encourage any student, employee, Health Service patient, or other individual who feels they have been subjected to sexual discrimination (including but not limited to sexual harassment, sexual violence or sexual assault) to immediately contact Jonathan Cook, Assistant Dean of Students, Title IX and Anti-Discrimination Coordinator or Nancy Escher, Associate Vice President and Chief Human Resources Officer, and/or the Newport Police. Complaints related to the University's Health Services Professionals or Athletic Trainers will be processed and resolved according to the procedures listed in this Policy. The University's Health Service Professionals and Athletic Trainers will follow appropriate procedures to maximize physical security. Patients may request a chaperone or support person at any time for any examination with Health Services Professionals or Athletic trainers.

## XI. Interim Actions

a. Emergency Removal and Administrative Leave

- i. Student Respondent. Upon receiving a report that a student Respondent engaged in prohibited conduct described in this Policy, the University reserves the right to remove the Respondent on an emergency basis, provided that it conducts an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any individual arising from the allegations justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
- ii. Non-student Employee Respondent. When the Respondent is a non-student employee, the University reserves the right to place the non-student employee on an emergency paid or unpaid administrative leave.

b. Supportive Measures

If the Title IX and Anti-Discrimination Coordinator determines the behavior alleged in a report or Complaint implicates the definitions of Sex Discrimination and is within the jurisdiction of the University, the Title IX and Anti-Discrimination Coordinator will make all reasonable efforts to promptly contact the individual to discuss the availability of Supportive Measures, consider the individual's wishes with respect to Supportive Measures, inform the individual of the availability of Supportive Measures with or without the filing of a formal Complaint, and explain to the Complainant the Policy, the process, and their options.

If a Complaint has been filed or the Title IX and Anti-Discrimination Coordinator is otherwise informed that the Respondent is aware that a report has been made, the Title IX and Anti-Discrimination Coordinator will make all reasonable efforts to promptly contact the individual to discuss the availability of Supportive Measures, consider the individual's wishes with respect to Supportive Measures, and explain to the Policy, the process, and their options.

- i. **Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:
  1. Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
  2. Provide support during the recipient's grievance procedures or during an informal resolution process.
- ii. The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. The University may also disclose supportive measures when legally permissible or required or necessary to effectuate this Policy and address conduct that may constitute Sex Discrimination.
- iii. Both the Complainant and Respondent involved in either an informal or a formal resolution process have a right to receive supportive measures from the University.
- iv. Supportive measures may vary depending on what the University deems to be reasonably available. They include, but are not limited to:
  1. Academic Accommodations, such as:
    - A. Exam, paper, or assignment rescheduling;
    - B. Taking an incomplete in a class;
    - C. Transferring class sections for the Complainant and/or Respondent when feasible;
    - D. Taking a leave of absence from the University;
    - E. Assistance with alternative course completion options;
  2. Assistance with Transportation;
  3. Assistance with On-Campus Working Environments;

4. Assistance with Questions Regarding Visa & Immigration Status;
5. Assistance with Student Financial Aid;
6. Counseling Services;
7. Housing Accommodations, such as:
  - A. Temporary housing/emergency room change for the Complainant and/or Respondent;
  - B. Assistance from the University support staff in completing a permanent room relocation;
  - C. Arranging to dissolve a housing contract and pro-rating a refund;
  - D. Help with finding an off-campus residential alternative;
8. Protective Orders, such as:
  - A. An institutional no-contact order (two way);
  - B. An institutional no-trespassing order; or
  - C. A court ordered restraining order.
- v. The University may continue, modify, or terminate supportive measures, as appropriate, at the conclusion of the grievance procedures or at the conclusion of the informal resolution process.
- vi. Parties may also seek additional modification or termination of Supportive Measures applicable to them if circumstances materially change.
- vii. Parties have the right to seek a modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures applicable to them and, after making a request for reconsideration to the Title IX and Anti-Discrimination Coordinator that does not result in supportive measures being accepted by the Party, will be provided the name of an appropriate and impartial employee ("Reviewing Employee") to contact. The Reviewing Employee will review the supportive measures to determine whether the decision to provide, deny, modify, or terminate supportive measures was consistent with the definition of Supportive Measures set forth above. The Reviewing Employee has the authority to make changes to the Supportive Measures as appropriate and consistent with this section.
- viii. Additional resources may be found in Appendix A and on the University Title IX website.

## **XII. False Allegations and Duty of Honesty**

The University expects community members to act in furtherance of a fair, neutral, and reliable Complaint resolution process. Parties and witnesses who participate in a Complaint resolution process shall be honest in their statements and communications. No one may knowingly and intentionally provide false and misleading information in the context of the Complaint resolution process.

The University reserves the right to impose appropriate disciplinary action on Parties, students, and employees who knowingly and intentionally file a False Complaint, or who participate dishonestly or in bad faith in the resolution of a Complaint filed pursuant to the Policy. Disciplinary action pursued against a party for knowingly making false statements or submitting false information in bad faith does not constitute retaliation prohibited under this Policy.

The Title IX and Anti-Discrimination Coordinator shall evaluate reports and Complaints of False

Allegations and failure to comply with the Duty of Honesty and determine whether such report should be addressed pursuant to this Policy or referred to another office, including Student Conduct.

### **XIII. Assessment of Reports and Complaints**

All reports and Complaints of Sex Discrimination will be assessed by the Title IX and Anti-Discrimination Coordinator to determine if the allegations implicate the definition of Sex Discrimination and are appropriately within the jurisdiction of the University.

The Title IX and Anti-Discrimination Coordinator will assess reports and Complaints and make a determination, or request additional information, within three (3) business days of receipt of a report or Complaint.

#### **a. Report Assessment**

When the allegations have been reported but no Complaint has been filed, the Title IX and Anti-Discrimination Coordinator will assess a report to determine if the alleged behavior implicates the definitions of Sex Discrimination and is within the jurisdiction of the University. If the Title IX and Anti-Discrimination Coordinator determines that the matter may implicate this Policy or further information is required prior to making that determination, the Title IX and Anti-Discrimination Coordinator will communicate with the Complainant or other appropriate party, to discuss the report.

In the absence of a Complaint, the Title IX and Anti-Discrimination Coordinator may decline to process or respond to a report pursuant to this Policy and is not required to provide notice or an appeal right.

#### **b. Complaint Assessment**

When a Complaint is filed, the Title IX and Anti-Discrimination Coordinator will assess the Complaint to determine if the alleged behavior implicates the definition of Sex Discrimination and is within the jurisdiction of the University. If the Title IX and Anti-Discrimination Coordinator determines that further information is required prior to making that determination, the Title IX and Anti-Discrimination Coordinator will communicate with the alleged victim, or other appropriate party, to discuss the Complaint.

#### **c. Complaint Dismissal**

If the Title IX and Anti-Discrimination Coordinator determines that the Complaint does not implicate the definition of Sex Discrimination or is outside the jurisdiction of the University, a notice of dismissal will be sent to the Complainant. The notice will include information on how the Complainant can appeal the dismissal. Dismissal rights are set forth in Section XIV(c) below.

#### **d. Other Determinations**

The Title IX and Anti-Discrimination Coordinator will assess information and determine whether to initiate a Complaint in the following instances:

- In the absence of a Complaint
- In the withdrawal of any or all of the allegations in a Complaint, and
- In the absence or termination of an informal resolution process.

In making these determinations, the Title IX and Anti-Discrimination Coordinator will consider several factors, including:

- The Complainant's request not to proceed with the Complaint.



- The Complainant's reasonable safety concerns regarding initiation of the Complaint
- The risk that additional acts of Sex Discrimination would occur if a Complaint is not initiated
- The severity of the alleged Sex Discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence
- The age and relationship of the parties, including whether the Respondent is an employee of the University
- The scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination, or Sex Discrimination alleged to have impacted multiple individuals
- The availability of evidence to assist a decisionmaker in determining whether Sex Discrimination occurred
- Whether the University could end the alleged Sex Discrimination and prevent its recurrence without initiating its grievance procedures.

If, after considering these and other relevant factors, the Title IX and Anti-Discrimination Coordinator determines that the alleged conduct presents an imminent and serious threat to the health or safety of the Complainant or another person, or that the alleged conduct prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX and Anti-Discrimination Coordinator may initiate a Complaint.

Regardless of whether a Complaint is initiated, the Title IX and Anti-Discrimination Coordinator may take other appropriate steps, in addition to steps necessary to effectuate the remedies provided to an individual Complainant, if any, to ensure that Sex Discrimination does not continue or recur within the University's program or activity.

However, in the absence of a submitted Complaint, the Title IX and Anti-Discrimination Coordinator is not required to take steps under this Policy upon being notified of conduct that may constitute Sex Discrimination if the Title IX and Anti-Discrimination Coordinator reasonably determines that the conduct as alleged would not constitute Sex Discrimination.

e. Complaint Approval and Next Steps

If a Complaint is determined to be appropriate under this Policy, the matter proceeds to the resolution procedures set forth in Section XIV.

f. Other Policies

If the alleged behavior does not implicate the definitions of Sex Discrimination, even if proven, or if it falls outside the jurisdiction of the University, it will be assessed to determine if it implicates the University's Anti-Discrimination Policy, the Student Code of Conduct, or an employee Policy, and the appropriate office will address the matter where applicable.

In some cases, allegations that implicate violations of other policies in addition to this Policy will be addressed through this Policy and included in any informal or formal process, as appropriate. The University reserves the right to include and address such matters as appropriate. For example, in some cases, the alleged violation that does not fall under the Policy will be investigated with Policy violations due to the commonality of evidence but then forwarded to the appropriate office for consideration and completion of the applicable process.

#### **XIV. Resolution Procedures**

The University has adopted grievance procedures that provide for the prompt and equitable resolution

of Complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX and Anti-Discrimination Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

The grievance procedures include four different Procedures to address and resolve Complaints:

1. Informal Resolution Procedures
2. Formal Procedure with Investigation with Determination
3. Formal Procedure with Investigation, Hearing, and Determination
4. Dismissal

Formal Procedures and Dismissals have appeal rights.

This is an overview of the resolution procedures. However, the Title IX and Anti-Discrimination Coordinator, Investigator, and Decision-Maker(s) may alter the resolution procedures alter the steps in the hearing process as they determine appropriate. Parties will receive timely written notification of any substantial and material changes in the resolution procedures.

#### a. Informal Resolution Process

In lieu of resolving a Complaint through the University's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process ("IRP"). The IRP differs from the formal process in that it does not involve a full investigation and adjudication. Rather, the IRP uses mediation or other forms of dispute resolution with the goal that the parties will arrive at a mutually agreed-upon outcome.

Informal resolution is a voluntary process that will be used only if all parties agree. No party is required to participate, and the parties may stop the process at any time prior to full execution of the agreement. Furthermore, the IRP may be used any time prior to a determination whether Sex Discrimination occurred, including where the matter is proceeding through the Formal Process. Parties may request an IRP during the Formal Process.

The University has the discretion to determine whether it is appropriate to offer an IRP when it receives information about conduct that reasonable may constitute Sex Discrimination under Title IX or when a Complaint is made. The Title IX and Anti-Discrimination Coordinator may decline to offer informal resolution despite one or more of the parties' wishes.

IRP cannot be used for Title IX cases involving allegations that an employee sexually harassed a student, and the University will not offer informal resolution to resolve a Complaint when such a process conflicts with Federal, State, or local law.

The IRP consists of the following steps:

##### i. Written Notice to the Parties

If the parties indicate that they are interested in participating in the IRP, Title IX and Anti-Discrimination Coordinator will provide written notice to the parties that includes:

1. The allegations from the Complaint;
2. The requirements of the IRP including the circumstances under which the parties are precluded from resuming a formal process arising from the same allegations;
3. Any time prior to full execution of the agreement, any party has the right to withdraw

from the IRP and initiate or resume the Formal Process;

4. The Parties' agreement to a resolution at the conclusion of the IRP preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
5. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties;
6. What information the University will maintain and whether and how the University could disclose such information for use in grievance procedures if grievance procedures are initiated or resumed;
7. Any consequences resulting from participating in the IRP, including the records that will be maintained or could be shared.

ii. Written Agreement to Participate

Prior to initiating the IRP, the parties must provide written acknowledgement and acceptance of the terms and conditions of the IRP.

iii. Informal Resolution Agreement

To complete the IRP, both parties must voluntarily agree to the outcome with the understanding that the outcome is final and will not be subject to further procedures under this Policy, unless there is material evidence to show that a party engaged in misrepresentation or fraudulent conduct which impacted the resolution.

iv. Termination of Informal Resolution Process

As mentioned above, both parties reserve the right to terminate the IRP any time prior to resolution. Such termination must be provided to the Title IX and Anti-Discrimination Coordinator in writing. After a withdrawal from the IRP, options to resolve the Complaint include: proceeding with the Formal Process, withdrawing the Complaint, or admitting to the violation, provided such option is approved by the Title IX and Anti-Discrimination Coordinator, if appropriate.

v. Potential terms that may be included in an agreement:

1. Restrictions on contact;
2. Educational programming;
3. Restrictions on the Respondent's participation in one or more of the University's programs or activities or attendance at specific events, including restrictions the University could have imposed as remedies or disciplinary sanctions had the University determined at the conclusion of the grievance procedures that Sex Discrimination occurred.

b. Formal Resolution Procedures

i. Two Formal Procedures: Investigation with Determination and Investigation, Hearing, and Determination

Once a Complaint or report is assessed by the University and determined to fall under this

Policy, the Title IX and Anti-Discrimination Coordinator will determine which formal process will apply:

- Formal Procedure: Investigation with Determination, or
- Formal Procedure: Investigation, Hearing, and Determination

As set forth in this section below, the two procedures consist of the same steps except with respect to how a determination is made. Under the Formal Procedure: Investigation with Determination, the Investigator investigates and makes a determination whether the Policy was violated. Under the Formal Procedure: Investigation, Hearing, and Determination, the Investigator investigates but does not make a determination. Instead, the report is forwarded for a live hearing where a Decision-Maker(s) will make a determination. Both processes include a notice of outcome and an appeal right. The Title IX and Anti-Discrimination Coordinator has the discretion to determine which procedure will be used.

ii. Assignment of Formal Procedure

The Title IX and Anti-Discrimination Coordinator will assign a Complaint a formal procedure as follows:

1. **Formal Procedure- Investigation with Determination** will be used in the following instances, as determined by the Title IX and Anti-Discrimination Coordinator:

- Complaints of Sex Discrimination

***Except for:***

- Complaints of Sexual Harassment where the alleged conduct implicates Clery Crimes (Sexual Violence, Relationship Violence, or Stalking)

2. **Formal Procedure- Investigation, Hearing, and Determination** will be used in the following instances, as determined by the Title IX and Anti-Discrimination Coordinator:

- Complaints of Sexual Harassment where the alleged conduct implicates Clery Crimes (Sexual Violence, Relationship Violence, or Stalking)
- Complaints that the Title IX and Anti-Discrimination Coordinator determines necessitate a hearing, which may, but not always, include: cases that involve multiple policies, multiple Complaints, or multiple parties, cases that implicate criminal laws, or matters implicating the health and safety of an individual or the community. Such determinations are made on a case-by-case basis, and the Title IX Coordinator and Anti-Discrimination Coordinator will provide written notice of the reason for their decision.

iii. Overview of Formal Procedures

The University will make all reasonable efforts to provide a prompt, equitable, fair and impartial resolution of student and employee Complaints. The University's grievance process treats Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility has been made against the Respondent, and by following its grievance process before imposition of any disciplinary sanctions or other actions that are not supportive measures. Remedies will be designed to restore or preserve equal access to the University's education program or activity. Such

remedies may include the same individualized services offered as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent

iv. Written Notice of Allegations

1. Upon accepting a Complaint, or after a successful appeal of the dismissal of a Complaint, the Title IX and Anti- Discrimination Coordinator will provide written notice to all known parties that includes:
  - A. The applicable University grievance process, including any informal resolution process;
  - B. The allegations alleged by the Complainant, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. “Sufficient details” include the identities of the parties involved, if known; the conduct allegedly constituting the discrimination or harassment (including Sexual Harassment), if known; and the date and location of the alleged incident(s), if known.
  - C. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
  - D. Information regarding the parties’ right to have an advisor of their choice, who may be, but is not required to be an attorney.
  - E. A statement that the parties may inspect and review evidence as described in the investigation section of this Policy; and
  - F. A statement that the University prohibits knowingly making false statements or knowingly submitting false information in bad faith at any point in the grievance process. Individuals who engage in this misconduct may be subject to disciplinary actions.
2. If in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the written notice of allegations described above, the Title IX and Anti-Discrimination Coordinator will provide written notice of the additional allegations to the parties whose identities are known.

v. Investigation

1. Overview of the Investigative Process
  - A. Once a formal Complaint is filed, the Title IX and Anti- Discrimination Coordinator will appoint an Investigator to conduct a formal investigation into the allegations.
  - B. Parties whose participation is invited or expected for an investigative interview will be contacted by the Investigator and provided written notice of the date, time, location, participants, and purpose of the meeting. Parties will be given reasonably sufficient time to prepare to participate.
  - C. All parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

- D. The Investigator may ask relevant and not otherwise impermissible questions of parties and witnesses, including questions challenging credibility.
  - E. The Investigator will ask the parties to provide questions they would like asked of the other Party. Parties must provide the Investigator with those questions within three days of the Investigator's request for questions.
  - F. The Investigator will notify the parties which witnesses the Investigator will attempt to interview and will ask the parties to provide questions they would like asked of the witnesses. Parties must provide the Investigator with those questions within three days of the Investigator's request for questions.
  - G. The parties will be provided with transcripts of interviews and a reasonable time to propose follow-up questions for those who have been interviewed. Parties must provide the Investigator with those questions within three days of the Investigator's request for questions.
  - H. The Investigator will make all reasonable efforts to complete the investigative report within 75 business days. This timeline may vary depending on the size of the formal Complaint, the amount of evidence to be considered, the number of persons to be interviewed, the timing of the identification of witnesses, the number of follow up interviews based on questions posed by the parties, and additional factors. When the Title IX and Anti-Discrimination Coordinator becomes aware that the Investigative Report is going to take longer than 75 business days to complete, the parties and their advisors will be given notice.
  - I. The Parties and their Advisors are not authorized to disseminate any portion of the investigative report sent to them through electronic or hardcopy means.
  - J. Unauthorized video or audio recordings of investigative interviews are not permitted by the Parties or their Advisors.
2. Witnesses and Evidence
- A. Parties are expected to submit all evidence and witnesses that relate to the matter prior to their review of the draft report and evidence so that the Investigator can prepare a meaningful draft report that includes all relevant information. Additional information may be submitted after the review of the draft report and evidence, and Parties are not required to participate in the process. However, the Investigator and Decision-maker may consider the timing of participation and submissions of evidence and witnesses in their credibility assessments, and parties may be provided the opportunity to explain the timing of any participation or submission of information.
  - B. Both the Complainant and Respondent are expected to provide the names of potential witnesses to the Investigator and an explanation of what relevant information they expect the witness to provide. The Investigator will determine which of those potential witnesses, or other persons, may have relevant information about the alleged conduct; and the Investigator may request statements, either orally or in writing.
  - C. Complainants and Respondents are expected to provide other relevant evidence to

the Investigator. For instance, evidence may include any facts or information presented in support of or opposition to an allegation, text messages, email exchanges, timelines, receipts, photographs, etc. The Investigator may also consider additional documents, items, or other relevant information.

- D. Witness and evidence not provided prior to the completion of the Final Investigative Report may not be accepted or considered for a determination by the Investigator or at Hearing unless there are extenuating circumstances, such as the witness and evidence were not reasonably known to the Party during the investigation phase. The Title IX and Anti-Discrimination Coordinator has the right to determine how to address such untimely submissions in a manner that is fair for all Parties and does not undermine the Policy and a fair and equitable process.

### 3. Draft Report and Evidence Review Period

- A. All parties will be given an equal opportunity to inspect and review any evidence obtained as a part of the investigation that is directly related to the allegations raised in the formal Complaint. This includes inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.
- B. Prior to the completion of the investigative report, the University will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic or hardcopy format and a Draft Report that fairly summarizes the relevant evidence.
- C. Each party will be given 10 days to submit a written response, which the Investigator will consider prior to completion of the investigative report.

### 4. Completion of the Investigative Report

- A. Either after the Investigator receives the parties' written responses or after the 10-day time limit has expired, the Investigator will create a final investigative report that fairly summarizes the relevant evidence.
- B. The Investigator will send the final investigative report to the parties for their review and comment and provide them with 10 days to submit final comments to the Final Investigative Report and Evidence.
- C. The parties will receive the Final Investigative Report and Evidence no later than 10 days prior to a hearing, as applicable.

### 5. Assessment After the Investigative Report is Complete

Upon receiving the Final Investigative Report, and the parties' comments thereto, the Title IX and Anti-Discrimination Coordinator will evaluate whether the alleged conduct, if proven, sufficiently implicates the definition of Sex Discrimination and this Policy. The parties will receive written notice of the decision within 5 business days of the Title IX and Anti-Discrimination Coordinator's receipt of the Final Investigative Report. The time period may be extended due to several factors, including the complexity of the case, the length of the report, and addressing any questions for the Investigator. A determination by the Title IX and Anti-Discrimination Coordinator that a matter should proceed does not mean that the Title IX and Anti-Discrimination Coordinator is making any findings of fact

or determination.

- A. *Continuation under this Policy.* If the Title IX and Anti-Discrimination Coordinator determines that the conduct alleged in the investigative report, if proven, sufficiently implicates the definition of Sex Discrimination and this Policy, then the Complaint will either be 1) referred to the Investigator to make determinations or 2) adjudicated in accordance with any and all specific procedures outlined in the Title IX Live Hearing Procedures section below.
- B. *Dismissal.* If the Title IX and Anti-Discrimination Coordinator determines that the conduct alleged in the investigative report, if proven, does not sufficiently implicate the definition of Sex Discrimination and this Policy, then the Complaint will be dismissed by written notice to the parties. The matter and the investigative report will be forwarded to the appropriate office, if any, for resolution. This dismissal is subject to an appeal right, set forth in Section # below.

vi. Determination by Investigator

If the matter is continued for the determination stage, the Investigator will review the Investigative Report and Evidence, including the parties' responses, make findings of fact, and make a determination whether the Respondent violated the Policy.

The Investigator will prepare a written determination of responsibility detailing the Investigator's findings and determinations consistent with Section XIV(b)(viii) below. Parties will be sent the written determination of responsibility within 14 business days after the Investigator was notified by the Title IX and Anti-Discrimination Coordinator to make findings.

vii. Determination by Live Hearing Procedures

1. Hearing Decision-Maker(s)

Within 3 business days of approving the Final Investigative Report for continuation under this process, the Title IX and Anti-Discrimination Coordinator will appoint a Decision-Maker(s). The Decision-Maker(s) will be assigned to preside over the live hearing. The parties will be provided with the name of the Decision-Maker(s) in writing and provided with three days to inform the Title IX and Anti-Discrimination Coordinator in writing of any conflicts with the Decision-Maker.

2. Live Hearing Schedule

Within 3 business days of appointing the Decision-Maker, the University will work with the parties to identify a mutually agreeable date and time for the hearing. The University will work to accommodate the parties and advisors but will not allow schedule requests that unreasonably delay the process.

Within 3 business days of identifying a date for the Hearing, the University will provide the parties, their advisors, and witnesses with written notice of the live hearing date, time, and location. The parties must inform the Decision-Maker(s) right away if there is a scheduling conflict that would make it impossible for them to attend the live hearing.

3. Impact Statements



The parties may submit impact statements to be read by the Decision-Maker(s). The statements must be submitted to the Title IX and Anti-Discrimination Coordinator no later than the commencement of the Hearing. Any impact statements will be read after the conclusion of the hearing if a finding of responsibility is made. The Decision-Maker(s) will consider the impact statements in the context of determining sanctions and remedies, as appropriate.

4. Pre-Hearing Conference

Parties and their advisors will be offered the opportunity to participate in a pre-hearing conference where the Hearing process and expectations will be explained and questions about the process will be addressed.

5. Submission of Questions- Requirement

Parties' advisors must submit an initial list of questions they would like to ask at the Hearing. They should submit the list of questions prior to the pre-hearing conference for review and determination of relevance at the pre-hearing conference. If a party does not participate in a pre-hearing conference, questions should be submitted to the Title IX and Anti-Discrimination Coordinator no later than three business days before the Hearing.

While it is expected that questions will be submitted in advance, advisors may ask additional questions at the Hearing by submitting the questions to the Decision-Maker. The Decision-Maker has the discretion to determine if questions should be submitted in writing or orally at the Hearing.

6. Overview of the Live Hearing Process

- A. At the request of either party, the University will provide for the live hearing to occur with the parties located in separate rooms. Live hearings may be conducted with all parties physically present in the same geographic location or, at the Title IX and Anti-Discrimination Coordinator's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. In either of the aforementioned situations, the University will provide technology that enables the participants to simultaneously see and hear each other.
- B. At the live hearing, the Decision-Maker(s) will permit questions by the parties' advisors, as described in the Questioning sections of this policy below.
- C. The University will create an audio or audiovisual recording, or transcript of any live hearing. The choice of whether it is an audio or audiovisual recording, or transcript is made in the sole discretion of the University. The audio or audiovisual recording, or transcript will be made available to both parties for inspection and review. In compliance with disability laws, the University will ensure that all parties are properly accommodated with respect to use of technology and reliance on visual, audio, or written communication.
- D. The only persons permitted to attend the live hearing are the parties, their advisors, the witnesses, and designated University personnel. The witnesses are only to be in attendance at the live hearing during the time in which they are offering information or answering questions. Otherwise, the witnesses are to be waiting in a designated room (or virtual room) until called upon.

E. The sequence of the Hearing is as follows:

- Opening statements (no longer than 10 minutes). Opening statements are not impact statements but are the opportunity to tell the Decision-Maker(s) the party's position and make their case. Impact statements are submitted and considered as set forth above.
- Questioning of Complainant by the Decision-Maker(s)
- Questioning of Complainant by Respondent's Advisor.
- Questioning of Respondent by the Decision-Maker(s)
- Questioning of Respondent by Complainant's Advisor
- Questioning of witness by the Decision-Maker(s)
- Questioning of witness by the Advisors
- Closing Statements (no longer than 10 minutes). Closing statements are not impact statements but the opportunity to reaffirm the party's position, make their case, and address testimony from the Hearing. Impact statements are submitted and considered as set forth above.

7. Questioning During Live Hearings

- A. At the Title IX live hearing, the Decision-Maker(s) will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. The Decision-Maker has the discretion to require the Advisors to present the Decision-Maker with the questions in writing for the Decision-Maker to ask, subject to a relevancy determination set forth below.
- B. Before a party or witness answers a question, the Decision-Maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker(s) has complete discretion to make relevancy determinations.
- C. The parties and their Advisors are required to engage with parties, witnesses, and the Decision-Maker(s) in a respectful and non-aggressive manner. The Decision-Maker has the right to remove any party or advisor who fails to comply with this requirement.
- D. Questions will be asked directly, orally, and in real-time from the advisors of the parties, not from the parties themselves. Advisors are permitted to ask the other party and witnesses relevant questions and follow-up questions, including questions which challenge credibility.
- E. The Advisor may only ask relevant, non-duplicative questions to each party and witness. Repetitive, badgering, not relevant, and unclear questions may be deemed harassing and intimidating, and an Advisor may be removed for engaging in this type of questioning.

8. Refusal to Respond to Questions

An Investigator or Decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. No inference will be drawn about whether Sex Discrimination occurred solely based on a party or witness' refusal to respond to such questions.

viii. Notice of Outcome Written Determination of Responsibility

1. Standard of Evidence

Preponderance of the evidence is the standard of evidence to be used to determine whether a Respondent is responsible for the prohibited conduct alleged in the formal Complaint. This is the standard of evidence that will be applied to all formal Complaints of prohibited conduct described in this Policy, regardless of whether the Respondent is a student or employee of the institution.

2. The Investigator and Decision-Maker(s) will undertake an objective evaluation of all relevant evidence (including both inculpatory and exculpatory evidence). In addition, the Investigator and Decision-Maker(s) will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness. Upon a determination of responsibility using the preponderance of the evidence standard described herein, the Investigator and Decision-Maker(s) will make their best effort to simultaneously issue a written determination regarding responsibility to both parties.

3. The written determination regarding responsibility will be provided within 14 business days of the investigator being directed to do so (in the case of an investigator determination) or the hearing (in the case of a decision-maker determination after a Hearing), and will include:

A. A description of the alleged Sex-Based Harassment

B. Information about the policies and procedures that the University used to evaluate the allegations;

C. The Investigator or Decision-Maker(s) evaluation of the relevant and not otherwise impermissible evidence and determination whether Sex-Based Harassment occurred;

D. When the Investigator or Decision-Maker(s) finds that Sex-Based Harassment occurred, any disciplinary sanctions the University will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the University to the Complainant, and, to the extent appropriate, other students identified by the University to be experiencing the effects of the Sex-Based Harassment; and

E. The University's procedures and permissible bases for the Complainant and Respondent to appeal.

4. The determination of responsibility will be deemed final on either of the following dates:

- If an appeal is filed, the date that the Appeal Officer provides the parties with the written determination of the result of the appeal; or
- If an appeal is not filed, the date on which an appeal would no longer be considered timely.

5. The University will not impose discipline on a Respondent for Sex Discrimination prohibited by this Policy unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited Sex Discrimination.

6. If there is a determination that Sex Discrimination occurred, as appropriate, the Title IX

and Anti-Discrimination Coordinator will:

- Coordinate the provision and implementation of remedies to a Complainant and other people the University as having had equal access to the University's education program or activity limited or denied by Sex Discrimination;
  - Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
  - Take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within the University's education program or activity.
7. The University will not discipline a party, witness, or others participating in the resolution procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether Sex Discrimination occurred. However, false statements and dishonesty are prohibited as set forth in Section XII.

ix. Remedies and/or Disciplinary Sanctions

Remedies will be designed to restore or preserve the Complainant's equal access to the University's education program or activity. Disciplinary actions may range from warnings to University dismissal or termination, depending on the magnitude and specifics of the violation. The types of prohibited conduct described in this Policy are all serious offenses, and such violations are subject to any combination of conduct remedies or sanctions. The range of possible disciplinary sanctions and remedies that the University may implement following any determination of responsibility are listed in Appendix B.

In the event of a determination of responsibility by the Investigator, the Investigator will make recommendations for sanctions and submit them to the Title IX and Anti-Discrimination Coordinator for review, consideration, and approval prior to finalizing the Written Determination of Responsibility. Sanctions will not be imposed until the completion of any appeal period and process.

c. Dismissals and Taking Responsibility

i. Dismissals

The University may dismiss a Complaint of Sex Discrimination if:

- The University is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in the University's education program or activity and is not employed by the University;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex Discrimination even if proven; or
- The University determines the conduct alleged in the Complaint, even if proven, would not constitute Sex Discrimination. Before dismissing the Complaint for this reason, the University will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the University will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent of the dismissal and the basis for the

dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing.

When a Complaint is dismissed, the University will, at a minimum:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that Sex Discrimination does not continue or recur within the University's education program or activity.

ii. Appeal of Dismissals

In the notice of dismissal, the University will notify the Complainant that the dismissal may be appealed pursuant to Section XIV(c) below and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent that the dismissal may be appealed.

If the dismissal is appealed, the University will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the parties;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

The decisionmaker for the appeal will not have participated in the investigation of the allegations or dismissal of the Complaint.

A Dismissal of a Complaint will be final upon the expiration of the Appeal time period or upon written notice that the decisionmaker for the appeal determined that the Dismissal was consistent with this Policy. A Dismissal means that the Complaint cannot be brought again.

iii. Choice to Admit Responsibility

At any point during the grievance process, a Respondent may choose to voluntarily admit responsibility for the alleged violation(s) and execute a written waiver, at which point the Respondent will be assigned a sanction(s) and the grievance process will be terminated.

d. Appeals of Dismissal of a Complaint or Determination of Responsibility

i. Both Parties have the option to appeal a dismissal of a Complaint and/or the determination regarding responsibility and sanction on the following bases:

1. A procedural irregularity that would change the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that would change the outcome of the matter; and
3. The Title IX and Anti-Discrimination Coordinator, Investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter. If it is found that a party was aware of a potential bias or conflict of interest prior to the

determination regarding responsibility and the party knowingly withheld that information from the University, the party will not be permitted to raise that allegation of bias or conflict of interest on appeal.

4. The imposed sanction(s) is disproportionate to the violation(s) for which the Respondent was found responsible.
  - ii. All appeals must be submitted in writing to the Appeal Officer (Vice President for Student Affairs or designee) within 10 days from the date the written determination of responsibility was sent to the parties.
  - iii. Appeals must contain the following information:
    1. Identification of which one or more of the four bases the appellant is appealing. Parties may appeal on more than one basis.
    2. Specific reasons and information supporting the basis for the appeal.
  - iv. Within 3 business days of receiving the written appeal, the Appeal Officer will review the appeal to determine whether it falls within the bases for appeal as described above. If it does, the University will promptly notify the other party when a valid appeal is filed and will implement appeal procedures equally for both parties. If it does not, the appealing party will be notified in writing.
  - v. The other party will be given 5 days from the date of notification of the appeal to submit a written response to the appeal to the Appeal Officer.
  - vi. Either after receiving the other party's written response to the appeal, or after the 5-day time limit has expired, the Appeal Officer will make a determination regarding the outcome of the appeal within 14 business days.
  - vii. Upon a determination of the outcome of the appeal, the Appeal Officer will provide written notice of the decision to both parties and will make all reasonable efforts to simultaneously notify said parties. This written notice will describe the rationale for the result of the appeal.
  - viii. The University will ensure that the Appeal Officer is not the Investigator, Title IX and Anti-Discrimination Coordinator, or the Decision-Maker(s).
- e. Additional Information Related to the Processes

i. Potential Delays in the Informal or Formal Resolution Processes

The University will make all reasonable efforts to abide by the timelines described throughout this Policy.

The University has established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause: when the Title IX and Anti-Discrimination Coordinator determines that the timeline for any stage of the Informal Resolution Process or the Formal Process must be changed for good cause or due to unexpected barriers to meeting the timeline, the Complainant and Respondent will receive written notice of the temporary delay or limited extension of timeframes and the reasons for

the change. Possible reasons for temporary delays or extensions of timeframes include, but are not limited to, the size of the formal Complaint, the impact of vacations and holidays, challenges in scheduling, difficulty accessing information or reaching a Party or witness, the amount of evidence to be considered, the number of persons to be interviewed, the timing of witness or evidence identification, and additional factors including the absence of a party or a party's advisor, concurrent law enforcement activity, the need for language assistance or accommodation of disabilities, etc. The Title IX and Anti-Discrimination Coordinator will provide such notice when the Title IX and Anti-Discrimination Coordinator has sufficient information to determine that the timeframe cannot be met.

ii. Request for Extensions of Timelines from the Parties

If a party has good cause and needs an extension during the formal Complaint grievance process, they can contact the Title IX and Anti-Discrimination Coordinator to request such extension. Parties should make a request as timely as possible and in good faith. It is within the Title IX and Anti-Discrimination Coordinator's discretion to grant such a request. In the case that an extension is granted, the same extension will be given to the other party.

The Title IX and Anti-Discrimination Coordinator has the discretion to deny an extension that unreasonably delays the process. While Parties have the right to an advisor and the University will seek to reasonably accommodate schedules, the process will not be unreasonably delayed by the Advisor's schedule and the University will proceed with the process accordingly.

iii. Advisors

The Complainant and the Respondent are entitled to the same opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney; and the University may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding, notwithstanding, the advisor must comply with the restrictions established by the University regarding the extent to which the advisor may participate in the proceedings. The restrictions are set forth below:

1. *Meetings and Investigation Interviews:* Advisors may not speak for or on behalf of any Complainant or Respondent during any meetings and/or investigation interviews. While an advisor cannot speak for or on behalf of the Complainant or Respondent during any meetings and/or investigation interviews, time will be granted for the advisor and the party to confer, if deemed appropriate, by the Investigator or University personnel facilitating any meeting. The Investigator and University personnel reserve the right to exclude an advisor from any meeting or investigation interview for failure to abide by these restrictions.
2. *Title IX Live Hearings:* Each party must have an advisor present at the Title IX live hearing. If a Complainant or Respondent does not have an advisor present at the Title IX live hearing, the University will provide one. The University reserves sole discretion to select the advisor provided. The advisor selected will be provided without cost to the Complainant or Respondent. The role of the advisor during the Title IX live hearing is solely to conduct questioning on the Complainant's or Respondent's behalf. At the Title IX live hearing, the Decision-Maker(s) will permit each party's advisor to ask the other party and any witnesses relevant questions and follow-up questions, including those challenging credibility. It is the expectation of the University that the advisor will at all

times act in a respectful and non-aggressive manner. The Decision- Maker(s) reserves the right to exclude an advisor from the Title IX live hearing for failure to abide by these restrictions. Should an advisor be excluded from the Title IX live hearing, the party will be able to choose a new advisor, or one will be provided by the University

iv. Consolidation of Complaints

1. The University may consolidate Complaints under this Policy when allegations arise out of the same facts or circumstances. In addition, a Complaint of Retaliation may be consolidated with a Complaint of Sex Discrimination. Where the formal resolution process involves more than one Complainant or more than one Respondent, references made to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.
2. Alleged violations of other University policies, which are related to the formal Complaint, may be adjudicated and resolved under this Policy.

v. Privileged Information

1. The University will not require, allow, rely upon, or otherwise permit questions or use of evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege. Notwithstanding the foregoing, if a person holding such a privilege has waived the privilege, then the information may be used during an investigation or live hearing.
2. In gathering evidence, the University will not access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party’s voluntary, written consent to do so.

vi. Evidence Pertaining to Sexual History

Evidence that relates to the Complainant’s sexual interests or prior sexual conduct, unless evidence about the Complainant’s prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant’s prior sexual conduct with the Respondent that is offered to prove consent to the alleged Sex-Based Harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant’s consent to the alleged Sex-Based Harassment or preclude determination that Sex-Based Harassment occurred.

vii. Time Limits

There is no time limit on reporting violations of this Policy, although the College’s ability to respond fully may be limited with the passage of time.

**XIV. Withdrawal/Permanent Separation with Charges Pending**

- a. If a Student Respondent withdraws from the University after the University has given notice to



the Respondent but prior to a finding or final resolution, an entry will be made on their academic transcript maintained by the Office of the Registrar that indicates the student has withdrawn with a disciplinary investigation and/or charges pending.

- b. If an Employee Respondent separates or is terminated from University after the University has given notice to the Respondent but prior to disciplinary a finding or final resolution, an entry will be made in their personnel file that indicates that the employee separated with disciplinary investigation and/or charges pending, or employment terminated with a disciplinary investigation and/or charges pending.
- c. If a Student Respondent graduates from the University after the University has given notice to the Respondent but prior to a finding or final resolution, an entry will be made on their academic transcript maintained by the Office of the Registrar indicating a disciplinary investigation and finding or resolution pending.
- d. If the University dismisses the matter, there will be no entry in the academic transcript or personnel file once the matter is dismissed.

#### **XV. Written Explanation of Rights and Options**

When an individual reports allegations of sexual assault, dating violence, domestic violence, or stalking, whether the offense occurred on or off campus, the University will provide the individual with a written explanation of rights and options

#### **XVI. Students and Employees with Disabilities**

Students and Employees requiring accommodations should contact the appropriate office (Students- Office of Disability Services or Employees- Human Resources) as soon as possible to arrange accommodations as appropriate. If a Complainant or Respondent is a student with a disability, the Title IX Coordinator may consult, as appropriate, with the Office of Disability Services to determine how to comply with Section 504 of the Rehabilitation Act of 1973.

#### **XVII. Additional Information**

- a. **Bystander Intervention** refers to safe and positive options that may be carried out by an individual(s) to prevent harm or intervene when there is a risk of discrimination or sexual harassment, including sexual assault, dating and domestic violence, or stalking, against a person(s) other than the individual. Safe and positive options for bystander intervention include: recognizing prohibited conduct and situations of potential harm; understanding institutional structures and cultural conditions that facilitate violence; overcoming barriers to intervening; and identifying effective ways to intervene and take action, provided that the intervention or action can be undertaken in a way that ensures the safety of the bystander. A description of the University's educational and primary prevention and awareness programs, including bystander intervention, can be found in the University's most recent Annual Security Report.
- b. **Risk Reduction** is defined as options designed to decrease perpetration and bystander inaction, increase empowerment in order to promote safety, and help individuals and communities address conditions that facilitate violence. A description of the University's educational and primary prevention and awareness programs, including risk reductions, can be found in the University's most recent Annual Security Report.
- c. **Preserving Evidence:** In cases of sexual violence, including sexual assault, dating and domestic violence, and stalking, as defined herein, it is critical that the Complainant preserve evidence because doing so may assist in proving that the alleged behavior occurred and/or may

be helpful in obtaining a protective order.

- d. **Resources:** The University will provide written notification about existing resources and services, which may include counseling, health, mental health, advocacy, legal assistance, visa and immigration assistance, student financial aid, and other resources and services that may be available at the University and in the community. The written information may include options for, available assistance in, and how to request changes to academic, living, transportation, and working situations; or protective measures. The University will make requested accommodations and protective measures if they are reasonably available, regardless of whether a report is made to Safety and Security or local law enforcement.
- e. **Violations of Rhode Island State Law:** Individuals may also wish to pursue criminal charges through local law enforcement. Below are relevant violations under Rhode Island General Law:
  - i. **First Degree Sexual Assault (RIGL § 11-37-2):** A person is guilty of first degree sexual assault if he or she engages in sexual penetration with another person, and if any of the following circumstances exist: (1) The accused, not being the spouse, knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless. (2) The accused uses force or coercion. (3) The accused, through concealment or by the element of surprise, is able to overcome the victim. (4) The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification, or stimulation.
  - ii. **Second Degree Sexual Assault (RIGL § 11-37-4):** A person is guilty of second degree sexual assault if he or she engages in sexual contact with another person and if any of the following circumstances exist: (1) The accused knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless. (2) The accused uses force, element of surprise, or coercion. (3) The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification, or stimulation.
  - iii. **Third Degree Sexual Assault (RIGL § 11-37-6):** A person is guilty of third degree sexual assault if he or she is over the age of eighteen (18) years and engaged in sexual penetration with another person over the age of fourteen (14) years and under the age of consent, sixteen (16) years of age.
  - iv. **Stalking (RIGL § 11-59-2):** Any person who: (1) harasses another person; or (2) willfully, maliciously, and repeatedly follows another person with the intent to place that person in reasonable fear of bodily injury, is guilty of the crime of stalking. "Harasses" means a knowing and willful course of conduct directed at a specific person with the intent to seriously alarm, annoy, or bother the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, or be in fear of bodily injury. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."
  - v. **Cyberstalking and Cyberharassment (RIGL § 11-52-4.2):** Whoever transmits any communication by computer or other electronic device to any person or causes any person to be contacted for the sole purpose of harassing that person or his or her family is guilty of a misdemeanor.
  - vi. **Dating Violence (R.I.G.L. §16-22-24)** "Dating violence" means a pattern of behavior where one person uses threats of, or actually uses, physical, sexual, verbal or emotional abuse to

control his or her dating partner. "Dating partner" means any person involved in an intimate association with another primarily characterized by the expectation of affectionate involvement whether casual, serious or long-term.

- vii. Domestic Violence (RIGL § 12-29-2): (a) "Domestic violence" includes, but is not limited to, any of the following crimes when committed by one family or household member against another: (1) Simple assault (§ 11-5-3); (2) Felony assaults (chapter 5 of title 11); (3) Vandalism (§ 11-44-1); (4) Disorderly conduct (§ 11-45-1); (5) Trespass (§ 11-44-26); (6) Kidnapping (§ 11-26-1); (7) Child-snatching (§ 11-26-1.1); (8) Sexual assault (§§ 11-37-2, 11-37-4); (9) Homicide (§§ 11-23-1 and 11-23-3); (10) Violation of the provisions of a protective order entered pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8 where the Respondent has knowledge of the order and the penalty for its violation, or a violation of a no contact order issued pursuant to § 12-29-4; (11) Stalking (chapter 59 of title 11); (12) Refusal to relinquish or to damage or to obstruct a telephone (§ 11-35-14); (13) Burglary and Unlawful Entry (chapter 8 of title 11); (14) Arson (chapter 4 of title 11); (15) Cyberstalking and cyberharassment (§ 11-52-4.2); (16) Domestic assault by strangulation § 11-5-2.3; (b) "Family or household member" means spouses, former spouses, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past three (3) years, and persons who have a child in common regardless of whether they have been married or have lived together, or persons who are, or have been, in a substantive dating or engagement relationship within the past one year which shall be determined by the court's consideration of the following factors: (1) The length of time of the relationship; (2) The type of the relationship; (3) The frequency of the interaction between the parties. (c) "Protective order" means an order issued pursuant to § 15-5-19, chapter 15 of title 15, or chapter 8.1 of title 8. (d) "Victim" means a family or household member who has been subjected to domestic violence.

**f. Complaints and Inquiries regarding Application or Enforcement of this Policy.**

Complaints and Inquiries regarding the application or enforcement of this Policy should be made to the University's Title IX and Anti-Discrimination Coordinator. Inquiries regarding the application of Title IX and its implementing regulations may be referred to the Title IX and Anti-Discrimination Coordinator or designee, or to the United States Department of Education, Office for Civil Rights, at OCR@ed.gov or (800) 421-3481. This Policy is in compliance with applicable legal requirements, including Title IX of the Education Amendments of 1972, relevant provisions of the Violence Against Women Reauthorization Act of 2013, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other applicable federal and Rhode Island state laws

**XVIII. Policy Revision**

The University reserves the right to revise this Policy in its sole discretion at any time. Any such revisions will be posted on the University's website.

**XIX. Record Keeping for Title IX Complaints**

The Title IX regulations require specific records to be retained. As such, for Title IX Complaints specifically, the University will document and maintain in University records for a period of seven years the following:

- a. For each Complaint of Sex Discrimination, records documenting the informal resolution process or the grievance procedures, and the resulting outcome.
- b. For each notification the Title IX Coordinator received of information about conduct that

reasonably may constitute Sex Discrimination under Title IX, including notifications from employees, and records documenting the actions the University took to comply with section 106.44.

- c. All materials used to provide training required by Title IX. The University will make those training materials available upon request for inspection by members of the public.

## **Appendix A: Contact Information for Title IX and Anti-Discrimination Coordinator and Additional Resources**

### **Title IX and Anti-Discrimination Coordinator**

Jonathan Cook, Assistant Dean of Students Office Address: Gerety 306  
Phone: (401) 341-2640  
Email: [Jonathan.Cook@salve.edu](mailto:Jonathan.Cook@salve.edu)  
Mailing Address: 100 Ochre Point Ave., Newport, RI 02840

### **Confidential On-Campus Resources**

Health Services Miley  
Lower Level  
(401) 341-2904

Counseling Services  
Miley Lower Level  
(401) 341-2919

University Chaplain  
(401) 341-2368

Confidential Off-Campus Resources  
Day One Resource Center  
(401) 421-4100  
Women's Resource Center  
(401) 846-5263

Rhode Island Coalition Against Domestic Violence (800)  
494-8100

Newport Hospital  
(401) 846-6400

Women & Infants Hospital  
(401) 274-1100

### **Assistant Secretary for Civil Rights**

U.S. Department of Education  
Office for Civil Rights  
400 Maryland Avenue, SW Washington,  
D.C. 20202-1100  
Telephone: (800) 421-3481  
FAX: (202) 453-6012; TDD: (800) 877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

### **Rhode Island Commission for Human Rights**

180 Westminster St #201,  
Providence, RI 02903  
(401) 222-2661

## Appendix B: Disciplinary Sanctions and Remedies

### I. Determining the Appropriate Discipline

- a. A. In considering the appropriate sanction, the decision makers shall consider the circumstances, including but not limited to the following factors:
  - i. The nature and violence of the conduct at issue;
  - ii. The impact of the conduct on the Complainant;
  - iii. The impact of the conduct on the community, its members, or its property;
  - iv. Whether the Respondent has accepted responsibility;
  - v. Whether the Respondent is reasonably likely to engage in the conduct in the future;
  - vi. The Respondent's prior discipline history;
  - vii. How the College has sanctioned similar incidents in the past;
  - viii. The severity of the sanction necessary to ensure that the conduct does not recur;  
and
  - ix. Any other mitigating or aggravating circumstances, including the College's values.
- b. Most Serious Offenses, Termination/Expulsion

The Decision Maker(s) must impose sanctions that reflect the seriousness of the incident and the harm caused to the Complainant and, as relevant, the University community. While any violation of the Title IX Sexual and Gender-Based Harassment, Sexual Assault, Intimate Partner Violence, and Stalking Policy is of concern and while any violation may lead to separation/termination or expulsion depending on the individual circumstances of the case, the University considers the following offenses to be particularly egregious and likely warrant expulsion/termination unless there are significant mitigating circumstances that overcome the presumption:

- i. Rape, Sodomy, Sexual Assault with an Object
  - ii. Domestic or Dating Violence with a serious injury
- c. The Title IX and Anti-Discrimination Coordinator is responsible for effective implementation of any remedies.
  - d. The range of possible disciplinary sanctions and remedies that the University may implement following any determination of responsibility are listed in Appendix B.

### II. Students

Students who are found responsible for violating this Policy may be subject to one or more of the following **disciplinary actions**. Action may range from warning to expulsion, depending on the magnitude and specifics of the infraction.

- a. Warning – a warning (either verbal or written), is an official notice to the student that their behavior has violated the Student Code of Conduct. A letter of warning serves as notification to the student that further misconduct/violations may result in additional disciplinary action.
- b. Developmental sanction – an assigned task or tasks intended to involve the student in a positive learning experience appropriate to the violation. Developmental sanctions of this type include, but are not limited to: alcohol education workshop, reflection paper,

educational project, My Student Body Conduct Course, and/or involvement with an established University program or committee.

- c. Community Restitution – uncompensated work/service on campus or off campus at a non- profit community service agency. Students assigned community restitution may also be assigned a reflection paper about their experience.
- d. Restitution – compensation for loss, damage, repair, replacement or injury. This may take the form of appropriate service, monetary or material replacement.
- e. Fine – a monetary fee/financial sanction imposed for specific infractions and/or cost associated with participation in a required program.
- f. Loss of Privileges – denial of specific privileges for a designated period of time.
- g. Parental/Guardian Notification – notification of parents/guardians when a student has violated the University’s alcohol or drug policy, when there is a serious health or safety issue regarding a student, or if a student’s residency or student status is in jeopardy.
- h. Counseling/Health Services Referral – a referral to the Counseling Center or Health Services or another appropriate office for consultation or assessment. The number of counseling sessions in which the student participates is at the discretion of the student’s counselor.
- i. No Contact Order – imposed in instances where it is determined that a student may pose a threat to another student. This order, specific to a person and/or location, prohibits the subject from having direct or indirect contact with the person requesting the No Contact Order. The No Contact Order specifically includes communication through email, mail, phone, instant message, text, social media, face to face, or any contact through a third party. A No Contact Order may be imposed prior to a hearing, as a result of a hearing, or in lieu of a hearing. Violation of a No Contact Order may result in further adjudication, up to and including interim suspension from the University.
- j. Residence Hall Relocation – required assignment to another residence area.
- k. Residence Hall Probation – a written reprimand for violation of the Student Code of Conduct. This sanction is for a defined period of time and includes the probability of more severe disciplinary sanctions if the student is found responsible for any additional violations during the probationary period.
- l. Residence Hall Suspension – separation of the student from their residence hall for a definite period of time, after which the student is eligible to return. Reapplication for housing does not guarantee immediate placement. Conditions for returning to the residence halls may be specified.
- m. Residence Hall Dismissal – permanent separation of the student from the residence halls.
- n. Disciplinary Probation – a sanction indicating that a student’s behavior has placed themselves on a disciplinary status that is close to suspension. It is imposed for a specific period of time. Any further violations while on University Probation may result in suspension and/or dismissal from the University.
- o. Deferred Suspension – a warning that a student may be immediately separated from the

University if found responsible for any further violations of the Student Code of Conduct during a specific period of time.

- p. Suspension – separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. During a period of suspension the student is not allowed on campus or at University sponsored events.
- q. University Dismissal – permanent separation of the student from the University. Student is not eligible to reapply.
- r. Interim Action – In certain situations, the Vice President for Student Affairs, Associate Vice President and Dean of Students, or designee, may take interim action against a student. This interim action may include but is not limited to: removal or ban from a residence hall (s) or University suspension, pending a hearing. Such actions will only occur if, in the Vice President for Student Affairs', Associate Vice President and Dean of Students', or designee's judgment, the student is a danger to themselves or other members or parts of the University community, or if the student is a disruptive/disorderly community member who is infringing on the rights of others. In such instances, the hearing officer will meet with the student as soon as practical to hear the case. As soon as practical after the interim action, the hearing officer shall prepare and deliver to the removed student a notice of charges and other information in conformance with the student conduct hearing process.

### III. Employees

Employees who are found responsible for violating this Policy may be subject to one or more of the following **disciplinary actions**. Action may range from warning to termination, depending on the magnitude and specifics of the infraction.

- a. Verbal warning – an official verbal notice to the employee that their behavior is not acceptable and may have violated this University Policy. Documentation of the delivery of a verbal warning should always be placed in the supervisors file on the employee.
- b. Written warning – an official written notice to the employee that their behavior is not acceptable and may have violated this University Policy. This written notice is signed by the employee and the employee's supervisor and is placed in both supervisor's file on the employee and the employee's file in the Office of Human Resources.
- c. Developmental sanction – an assigned task or tasks intended to involve the employee in a positive learning experience appropriate to the violation. Developmental sanctions of this could include, but are not limited to training, mediation, coaching or a performance improvement plan.
- d. Change in responsibilities or supervisory role – a modification of the employee's job duties or a change in a supervisory role.
- e. Suspension with pay – a separation of the employee from the University for a definitive period of time with pay.
- f. Suspension without pay – a separation of the employee from the University for a definitive period of time without pay.
- g. Termination – a permanent separation of the employee from the University.