

Wesley College Title IX Policy

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POLICY STATEMENT

I. PURPOSE

Wesley College (“Wesley” or the “College”) is committed to maintaining a learning environment and workplace free from discrimination on the basis of sex. The College has established this Sexual Misconduct Policy (the “Policy”) to ensure and promote an academic and work environment that is free from all forms of Sexual Harassment, including Sexual Violence. This Policy, including the procedures set forth herein are in addition to, and not a replacement for, any available legal options.

II. SCOPE

This Policy applies to all members of the College community, including but not limited to, students, faculty, and staff, and covers Prohibited Conduct that occurs on campus or other College property, occurs in connection with education programs or activities (whether on or off campus), or otherwise affects the College community.

Education program or activity includes locations, events, or circumstances over which the College exercised substantial control over both the Respondent and the context in which the alleged Sexual Harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the College (such as a fraternity or sorority house).

In certain instances, this Policy applies to third parties, such as visitors, volunteers, vendors and contractors while on College property, participating in a College-sponsored activity, or providing or receiving services to or from the College, as well as applicants for admission to or employment with the College.

This Policy is not intended to and will not be used to infringe upon academic freedom.

III. PROHIBITED CONDUCT

This Policy prohibits all forms of Sexual Misconduct, including Sex Discrimination, Sexual Harassment, and Sexual Violence, committed against employees, students, or third parties, as well as Retaliation.

Questions regarding this Policy and any questions concerning Title IX should be referred to the College’s Title IX Coordinator:

Dawn Howard-Bailey
Wesley College 120 N. State St.
Dover, DE 19901
(302) 736-2306
Dawn.Howard-Bailey@wesley.edu

IV. CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome.

Even when both parties have consented at the outset to a romantic or sexual relationship, this past consent may not remove grounds for a later charge of a violation of applicable sections of this Policy. Wesley College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. For the personal protection of members of the College community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party constitute a conflict of interest. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes RAs and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

DEFINITIONS

1. Actual Knowledge

Notice to a Title IX Coordinator, or to an official with authority to institute corrective measures on behalf of the College, which triggers the College's response obligations.

2. Formal Complaint

A document, filed by a Complainant or signed by a Title IX Coordinator, alleging some form of Prohibited Conduct, against a respondent, and requesting that the College investigate the allegation(s) of Prohibited Conduct.

3. Complainant

The individual(s) who is alleged to be the victim of conduct that could constitute Prohibited Conduct.

4. Complicity

Any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.

5. Confidential Resources

Any person who has a legal obligation to protect confidentiality when acting in a professional capacity unless there is an imminent threat to health or safety or other legal basis for disclosure including the requirement to report a crime under the Clery Act. Confidential Resources include licensed mental-health counselors, pastoral counselors, social workers, psychologists, and psychiatrists.

6. Consent

Words or actions that demonstrate an affirmative, knowing and voluntary agreement to engage in a mutually agreed-upon sexual act. Consent must be informed and freely given by a person aged 16 years or older. Consent cannot be given when it is forced, coerced, or when a person is physically and/or mentally incapable of giving Consent. For example, a person who is substantially impaired by drugs or alcohol may not be able to Consent.

Consent is an active, on-going process. It can be withdrawn at any time, and Consent for one sexual act does not imply consent for another subsequent sexual act. Consent, a lack of Consent, or a withdrawal of Consent can be expressed by words, actions, or both. For example, verbal silence or the absence of physical resistance does not automatically mean someone has consented to a sexual act; nor is physical resistance required for a person to verbally communicate a lack of Consent or to withdraw Consent.

Some of the key points regarding Consent include:

- Consent to one form of sexual activity does not automatically imply Consent to any other form of sexual activity;

- Consent may be withdrawn at any time;
- Previous relationships or prior Consent does not automatically imply Consent to future sexual acts;
- Consent cannot be given by an individual who one knows to be, or, based on the circumstances, should reasonably have known to be, substantially impaired; and
- Intoxication is not a basis for failing to obtain Consent.

7. Cyberstalking

A form of Stalking in which electronic media, such as the Internet, email, social networks, text messages, cell phones, or other electronic devices are used.

8. Dating Violence

Violence committed by a person who is or who has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on the Complainant's statement, and with consideration of the length of the relationship, type of relationship, and frequency of interaction between the persons in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Dating Violence does not include conduct that constitutes Domestic Violence.

9. Discrimination

The treatment of a member of the Wesley community less favorably because that person is a member of or associates with a member of a protected class. The College prohibits discrimination on the basis of race, color, religion, sex (including pregnancy), gender identity, sexual orientation, reproductive health decision, national origin, age (over 40), disability (mental or physical), genetic information, marital status, family responsibilities, victim of Domestic Violence, sexual offense, or Stalking, veteran status, or status as a volunteer emergency responder.

10. Domestic Violence

An act that could be classified as a felony or misdemeanor crime of violence committed: (i) by a current or former spouse or intimate partner of the Complainant; (ii) by a person with whom the Complainant shares a child in common; (iii) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Delaware; (v) by any other person against an adult or youth victim who is protected by that person's acts under the domestic or family violence laws of Delaware. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or had or currently have an intimate relationship.

11. Final Investigation Report

A report issued by the Investigator tasked with investigating the allegations of a Formal Complaint which includes a determination as to whether the Respondent is responsible for

violation(s) of the Policy and all evidence relied upon by the Investigator in coming to its decision.

12. Gender-Based Harassment

A form of Sexual Harassment and refers to unwelcome conduct based on an individual's actual or perceived sex, including harassment based on gender identity or nonconformity with sex stereotypes, and not necessarily involving conduct of a sexual nature.

13. Hearing Panel

A four (4) person panel, including one (1) non-voting Hearing Panel Chair and three (3) voting panel members, that preside over the live hearing to determine whether the Respondent violated the Policy and the appropriate sanction(s) if applicable.

14. Hearing Panel Chair

The non-voting panel member who is responsible for the administration of the hearing process including procedural matters and decisions leading up to the hearing.

15. Hostile Environment

Results from unwelcome conduct that is sufficiently severe, pervasive, or persistent that it interferes with or limits the ability of a member of the College community from equal access, including the ability to participate in, or receive benefits, services, or opportunities from the College's programs or activities.

16. Incapacitated

A state in which an individual cannot make rational, reasonable decisions because the individual lacks the capacity to give knowing Consent (e.g., to understand the "who, what, when, where, why, or how") of their sexual interaction. Examples include, but are not limited to, being: unconscious; asleep; voluntarily or involuntarily intoxicated; or use of any drug, intoxicant, or controlled substance. An individual who is incapacitated cannot give Consent.

17. Interim Measures

Reasonably available and feasible measures, accommodations, or steps the College may take while a Formal Complaint is pending in order to assist, support, and/or protect the Complainant, Respondent, or another person, and/or to protect the integrity of the Investigation and resolution process.

18. Investigation

The process of gathering information and evidence following the filing of a Formal Complaint by a trained Title IX Investigator.

19. Non-Consensual Sexual Contact

Any intentional sexual touching, however slight, with any body part or object, by an individual upon another that is without Consent. Sexual contact includes intentional touching of the individual's anus, breast, buttocks, or genitalia; or any intentional touching of another person

with the Respondent's anus, breast, buttocks, or genitalia.

20. Non-Consensual Sexual Intercourse

Any penetration of the anus or vagina of another person, however slight, with any body part or object that is without Consent, or the placement, however slight, of the genitalia or any sexual device inside the mouth of another person without Consent.

21. Preponderance of the Evidence

Based on the evidentiary record, the Respondent more likely than not engaged in the conduct at issue.

22. Prohibited Conduct

The conduct prohibited by this Policy, which includes Sexual Misconduct, Complicity, and Retaliation.

23. Relationship Violence

Dating Violence and Domestic Violence.

24. Respondent

The person alleged to have engaged in or committed the Prohibited Conduct.

25. Responsible Employee

Any College employee, who has the authority to take action to report Sexual Misconduct, has the duty to report incidents of Sexual Misconduct to the Title IX Coordinator, or whom student reasonably believes has such authority or duty. Responsible Employees do not include Confidential Resources. Responsible Employees include academic administrators, advisors, supervisors, department heads and chairs, deans, student affairs staff, faculty, human-resources personnel, campus-security officers, resident advisors, and athletic coaches. Responsible Employees must promptly report all known relevant information to a Title IX Coordinator, including the name of the Complainant, Respondent, and any witnesses.

26. Retaliation

Intimidating, threatening, coercing, or in any way discriminating against an individual because the individual filed a Formal Complaint or who participates in the Investigation or resolution of a Formal Complaint in any way, or opposes in a reasonable manner an act or policy believed to constitute sex discrimination. For example, Retaliation occurs where a professor gives a student a lower grade because the student appeared as a witness in a proceeding under this Policy, or where a supervisor denies an employee's request for time off because the employee claimed that they were sexually harassed by the supervisor.

27. Sexual Assault

Any sexual act directed against a Complainant without the Consent of the Complainant, including instances in which the Complainant is incapable of giving Consent, including because of Incapacitation. The sexual acts covered by this definition include the following:

- Rape: Penetration no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the Complainant.
- Sodomy: Oral or anal sexual intercourse with another person, without the knowing Consent of the Complainant, including instances where the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical Incapacitation.
- Sexual Assault with an Object: To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the knowing Consent of the Complainant, including instances where the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical Incapacitation.
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification without the knowing Consent of the Complainant, including in instances where the Complainant is incapable of giving Consent because of age or because of temporary or permanent mental or physical Incapacitation.

28. Sexual Exploitation

Occurs when an individual takes non-consensual or abusive sexual advantage of another for that individual's own advantage or benefit, or to benefit or advantage anyone other than the individual being exploited, and that behavior does not otherwise constitute Sexual Assault.

Examples of Sexual Exploitation include but are not limited to:

- Engaging in voyeurism;
- Exposing one's genitals or inducing another to expose his or her or their genitals;
- Knowingly transmitting a sexually transmitted infection to another;
- Taking, sharing, or publishing a photograph, video recording, or audio recording of sexual activity without the Consent of all persons involved in the activity;
- Going beyond the boundaries of Consent (for example, allowing another person to hide in a closet to watch you engage in consensual sex);
- Prostituting another; and
- Possession, use, and/or distribution of alcohol or other drug (e.g., Rohypnol, Ketamine, GHB, Burundanga, etc.) for the purpose of engaging in or facilitating Sexual Misconduct.

29. Sexual Harassment

Conduct including: (i) Any instance of quid pro quo harassment by a College employee; (ii) any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; (iii) any instance of Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

30. Sexual Intimidation

Threatening behavior of a sexual nature directed at another person and includes threatening Sexual Assault; engaging in indecent exposure; and Stalking.

31. Sexual Misconduct

Sexual Harassment, Sexual Assault, Sexual Exploitation, Sexual Intimidation, Sexual Violence, Relationship Violence, and Stalking.

32. Sexual Violence

One or more physical sexual acts perpetrated against a person's will or where a person is incapable of giving Consent.

33. Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her or their safety or the safety of others, or to suffer substantial emotional distress. For purposes of this definition, a "Course of Conduct" means two or more acts, including but not limited to, those in which the alleged perpetrator directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the Complainant, or interferes with the Complainant's property. For purposes of this definition, "Reasonable Person" means a reasonable person under similar circumstances and with similar identities to the Complainant. For purposes of this definition, "Substantial Emotional Distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. Under this policy, the term "Stalking" includes Cyberstalking as defined above.

34. Title IX Coordinator

The role of the Title IX Coordinator is described in detail in later parts of this Policy. Where the "Title IX Coordinator" is used in this Policy, it is implied that this may refer to the Title IX Coordinator or their designee. (i.e., Coordinator).

THE TITLE IX TEAM

The Title IX Coordinator is responsible for the administration of this Policy and oversees the College's response to, and investigation and resolution of, all reports of Prohibited Conduct. The Title IX Coordinators assist the Title IX Coordinator with case management, training, and prevention, as well as the investigation of complaints.

The Title IX Coordinator also leads the College's Title IX Team. A list of the members of the Title IX Team is published annually and can be found at Appendix A.

The College's Title IX Coordinator is Dawn Howard-Bailey. She can be reached at (302) 736-2306, Dawn.Howard-Bailey@wesley.edu, or by mail at Dawn Howard-Bailey, Wesley College 120 N. State St., Dover, Delaware 19901.

Individuals should contact the Title IX Coordinator with any concerns about this Policy or the College's application of Title IX. Complainants also have the right to seek redress from state and federal governmental agencies, including the Department of Education's Office of Civil Rights ("OCR"), U.S. Equal Employment Opportunity Commission ("EEOC"), and Delaware Department of Labor ("DDOL"):

U.S. Department of Education
Office for Civil Rights
Philadelphia Office
The Wanamaker Building
100 Penn Square E., Suite 515
Philadelphia, PA 19107
(215) 656-8541
OCR.Philadelphia@ed.gov

U.S. Equal Employment
Opportunity Commission
Philadelphia Office
801 Market St., Suite 1300
Philadelphia, PA 19107
(800) 669-4000
info@eeoc.gov

Delaware Department of Labor
Division of Industrial Affairs
Blue Hen Corporate Center
655 S. Bay Rd. Suite 2H
Dover, DE 19901
(302) 422-1134

RIGHTS OF THE PARTIES

This Policy and the procedures described herein provide for the prompt, equitable, and impartial Investigation and resolution of incidents of Prohibited Conduct reported to the College.

Throughout this process, the Complainant and Respondent have the following rights:

I. RIGHTS OF THE COMPLAINANT

- The right to be treated with dignity and respect by College officials.
- The right to experience a safe living, educational, and work environment.
- The right to be informed of available on and off campus counseling and support services.
- The right to working, housing, and academic accommodations as necessary.
- The right not to face disciplinary action for consumption of alcohol or drugs at or near the time of the reported incident of Prohibited Conduct.
- The right to be free from Retaliation.
- The right to have Formal Complaints investigated and/or resolved in substantial accordance with these Procedures.
- The right to refuse to have a Formal Complaint resolved through Informal Resolution.
- The right to challenge an individual designated by the College to investigate and/or resolve the Formal Complaint based upon a conflict of interest.
- The right to have a Formal Complaint investigated by individuals who receive annual training on Sexual Misconduct.
- The right to be promptly notified in writing of the outcome of a Formal Complaint.
- The right not to be discouraged by College officials from reporting an incident to law enforcement.
- The right to request a case-specific “no contact” order/directive be put in place and enforced.
- The right to review all evidence and witness statements collected as part of the Investigation of a Formal Complaint at least ten (10) prior to a live hearing.
- The right to a live hearing.
- The right to have an advisor of one’s choice who may be, but is not required to be, an attorney, present at any meeting or proceeding held as part of the process to resolve a Formal Complaint of Prohibited Conduct. If a party does not have an advisor present at the live hearing, the College will provide, at no charge to the party, an advisor of the College’s choice.
- The right to up to three hours of consultation time with an advisor for pre-hearing

preparation after a matter has been set for hearing, plus actual time required for the hearing, plus up to two additional hours for any appeal, at no cost to the party. For student Complainants and Respondents, this time is in addition to the pre-hearing consultation time.

- The right to request that the entire live hearing (including cross-examination) occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- The right to be free from direct questioning by the Respondent during any part of the resolution process.
- The right to present both fact and expert witnesses during a live hearing and/or the Investigation process.
- The right to have a party's advisor "cross-examine" the other party and any witnesses presented during a hearing.
- The right to jointly agree with the other party to waive cross-examination and instead submit written cross-examination questions to the Hearing Panel to conduct the examination. Parties will not be pressured to make this election or be penalized in any way for electing to conduct cross-examination through their advisor.
- The right not to have irrelevant prior sexual history discussed during the Investigation and resolution process unless the evidence is offered to prove that someone other than the Respondent committed the alleged misconduct or offered to prove Consent.
- The right to submit an impact statement and have that statement considered in determining sanction(s).
- The right to have notice when that party's participation is invited or expected with respect to any meeting, interview, or hearing during the grievance process.
- The right to appeal the Hearing Panel's determination as to a finding of responsibility.
- The right to receive a notice of the outcome of an appeal.

II. RIGHTS OF THE RESPONDENT

- The right to be treated with dignity and respect by College officials.
- The right to be presumed not responsible for violating the Policy and for an outcome based solely on the evidence presented during the Investigation and resolution of a Formal Complaint.
- The right not to have any disciplinary sanctions imposed before a finding of responsibility in accordance with this Title IX Procedure.
- The right to be informed of available on and off campus counseling and support services.
- The right to a written summary of the allegations, the range of potential Policy

violations, and the range of potential disciplinary sanctions.

- The right to a live hearing.
- The right to have an advisor of one's choice who may be, but is not required to be, an attorney present at any meeting or proceeding as part of the process to resolve a Formal Complaint. If a party does not have an advisor present at the live hearing, the College will provide, at no charge to the party, an advisor of the College's choice.
- The right to up to three hours of consultation time with an advisor for pre-hearing preparation after a matter has been set for hearing, plus actual time required for the hearing, plus up to two additional hours for any appeal, at no cost to the party. For student Complainants and Respondents, this time is in addition to the pre-hearing consultation time.
- The right to have Formal Complaints investigated and/or resolved in substantial accordance with these Procedures.
- The right to refuse to have a Formal Complaint resolved through Informal Resolution.
- The right to present both fact and expert witnesses during a live hearing and/or during the Investigation.
- The right to request that the entire live hearing (including cross-examination) occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- The right to have a party's advisor cross-examine the other party and any witnesses presented during a hearing.
- The right to jointly agree with the other party to waive cross-examination and instead submit written cross-examination questions to the Hearing Panel to conduct the examination. Parties will not be pressured to make this election or be penalized in any way for electing to conduct cross-examination through their advisor.
- The right to have notice when that party's participation is invited or expected with respect to any meeting, interview, or hearing during the grievance process.
- The right to be free from Retaliation.
- The right to a prompt, fair, and impartial Investigation and resolution of all Formal Complaints.
- The right to be free from direct questioning by the Complainant during any part of the resolution process.
- The right to review all the evidence and witness statements collected as part of the Investigation of a Formal Complaint and at least ten (10) days to review the materials prior to a hearing.
- The right not to have irrelevant prior sexual history discussed during the Investigation and resolution process.
- The right to submit a mitigation statement and to have that statement considered in

determining sanction(s).

- The right to challenge an individual designated by the College to investigate and/or resolve the Formal Complaint based on conflict of interest.
- The right to be promptly notified in writing of the outcome of the Formal Complaint.
- The right to have the Formal Complaint investigated by individuals who receive annual training on Sexual Misconduct, Relationship Violence, and Stalking.
- The right to appeal the Hearing Panel's determination as to a finding of responsibility.
- The right to receive notice of an outcome of an appeal.

REPORTING OPTIONS

It is important for individuals who experience Sexual Misconduct to be aware of their options in order to make an informed decision when reporting the experience. The College recognizes that individuals who experience Sexual Misconduct have the right to decide whether to file a criminal report with law enforcement, and whether to file a report with the College (via the Title IX Coordinator or Title IX Coordinator), an anonymous report, or no report at all.

I. REPORTING TO LAW ENFORCEMENT

Individuals who experience Sexual Misconduct are strongly encouraged to report the incident to law enforcement. Reporting an incident to law enforcement does not preclude the individual from also reporting the incident to the College. Reports made to the College and law enforcement may be pursued simultaneously, and the outcome of one investigation does not determine the outcome of the other.

II. REPORTING TO THE COLLEGE

The College can take corrective action and provide support only when it becomes aware of a problem. Accordingly, individuals who believe they have experienced Sexual Misconduct are encouraged to promptly report the incident to the College by making a report or Formal Complaint to the Title IX Coordinator:

Dawn Howard-Bailey
Wesley College 120 N. State St.
Dover, DE 19901
(302) 736-2306
Dawn.Howard-Bailey@wesley.edu

Time Period for Reporting

The College does not impose a time limit for reporting an incident of Sexual Misconduct. However, individuals are strongly encouraged to report the incident as soon as possible in order to maximize the College's ability to respond promptly and effectively.

Anonymous Reporting

Individuals other than Responsible Employees have the option of anonymously reporting an incident of Prohibited Conduct to the College. An individual may make an anonymous report without providing his or her or their name, the identity of the perpetrator, and/or the specific details of the incident. The Director of Public Safety receives all anonymous reports and may consult with the Title IX team on the most appropriate means to respond, which may include implementing community remedies such as targeted training or increased monitoring and surveillance.

Responsible Employees cannot remain anonymous when reporting Sexual Misconduct.

████████ Responsible Employees

Responsible Employees will safeguard an individual's privacy but are *required* to immediately share all details known about any alleged violation of this Policy. Responsible Employees are obligated to report allegations of Prohibited Conduct to the Title IX Coordinator. No employee is authorized to investigate or resolve incidents of Prohibited Conduct without the involvement of the Title IX Coordinator.

Responsible Employees may contact the Title IX Coordinator in Human Resources at:

Dawn Howard-Bailey
Wesley College 120 N. State St.
Dover, DE 19901
(302) 736-2306
Dawn.Howard-Bailey@wesley.edu

The Title IX Coordinator makes every effort to work collaboratively with the Responsible Employee in order to operate with discretion and to maintain the privacy of the individuals involved.

████████ Students

All students who are not required to report as a Responsible Employee are *strongly encouraged* to report any Prohibited Conduct perpetrated by a member of the College community or occurring at a College program or activity.

████████ False Allegations

No Formal Complaint or report will be considered "false" solely because it cannot be corroborated. The College will take appropriate action to address and/or impose appropriate discipline on members of the College community who file documented false Formal Complaints of Sexual Misconduct. In such cases of proven false allegations, discipline may include, but is not limited to, suspension and/or termination.

III. EXTERNAL REPORTING OPTIONS

Inquiries or complaints about the application of Title IX or the College's handling of Formal Complaints made under this policy may be referred to the Department of Education's Office for Civil Rights:

U.S. Department of Education Office
for Civil Rights Philadelphia Office
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107
(215) 656-8541
OCR.Philadelphia@ed.gov

For information on how to file a complaint, please see <http://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>

IV. PRIVACY AND CONFIDENTIALITY

The College is committed to protecting the privacy of all individuals involved in an incident reported under this Policy. Every effort will be made to respect and protect the privacy interests of individuals involved in a manner consistent with need to investigate, eliminate, and prevent Sexual Misconduct.

██████ The Distinction Between Privacy and Confidentiality

1. Privacy

Privacy generally means that information related to a reported incident will be shared only with a limited number of individuals on a need-to-know basis. If disciplinary action is pursued, information related to the report will be shared with the Respondent.

Information will not be shared with a student's parents or guardians unless the student has signed a waiver that complies with FERPA or there is an articulable threat to the health or safety of the student or other individuals.

A Responsible Employee cannot offer confidentiality to an individual who discloses an incident of Sexual Misconduct. Responsible Employees will, however, maintain the privacy of the individuals involved on a need-to-know basis.

2. Confidentiality

Confidentiality means that the information will be disclosed only with the individual's express permission unless there is an imminent threat of harm to self or to others. An individual can seek confidential assistance and support by speaking with specifically designated Confidential Employees and using the Confidential Resources identified in Appendix B.

██████ Requests for Confidentiality

When a Complainant requests that their name not be shared with the Respondent or that no formal action be taken, the Title IX Coordinator, in consultation with the Title IX Team, will balance this request with the College's obligation to provide a safe and non-discriminatory environment to the Complainant and to the College community.

If the request is honored, the College still will take all reasonable steps to investigate and respond but its ability to do so may be limited. If the College is not able to honor the Complainant's request, the Title IX Coordinator will inform the Complainant prior to starting a formal Investigation. The Complainant may choose to not participate in the Investigation but the College's ability to meaningfully investigate the incident and/or pursue disciplinary action may be limited.

In instances where the Title IX Coordinator has determined that the College must proceed with an Investigation despite a Complainant's request to the contrary, the Title IX Coordinator will make reasonable efforts to protect the privacy of the Complainant.

Restrictions

While discretion is important, the parties are not prohibited from discussing and sharing information related to the Formal Complaint, Investigation, hearing, and/or appeal with others who may support or assist them in presenting their case.

Clery Reporting Obligations

The Clery Act requires the College to record and report certain information about certain crimes that occur on or near campus. The Clery Act also requires the College to issue a "timely warning" when it receives a report of certain crimes that pose a serious or continuing threat to the safety of the campus community. Personal identifying information about Complainants will not be included in any timely warning or security notification, or in any publicly available record.

Amnesty Provisions

Students who report Sexual Misconduct will not be disciplined by the College for a violation of the College's drug-and-alcohol policies that may have occurred in connection with the reported incident if: (1) the College determines that the violation occurred during or near the time of the alleged Sexual Misconduct; (2) the student is determined to have made the report or is participating as a witness in good faith; and (3) the College determines that the violation was not an act that was reasonably likely to place the health or safety of another individual at risk.

Because alcohol and drug misuse can negatively impact a student's well-being, the College may refer a student for health or medical intervention related to drug or alcohol use.

INVESTIGATION AND RESOLUTION PROCEDURES

I. OFFICIALS CONDUCTING THE INVESTIGATIONS AND RESOLUTION

Conflicts of Interest

All persons participating in the Investigation or resolution of a Sexual Misconduct case (including hearing, sanctioning, and appeals) must disclose any potential or actual conflict of interest to the Title IX Coordinator. The Title IX Coordinator is responsible for sharing relevant information with the Complainant and Respondent.

If either party believes that any person involved in the process has a conflict of interest, they may request that the individual not participate. Any such request should be made to the Title IX Coordinator and should include a description of the alleged conflict.

If the Title IX Coordinator determines that a disabling conflict of interest exists, the Title IX Coordinator will take steps to address the conflict in order to ensure an impartial process.

Training

All officials conducting Investigations and hearings under this Policy shall, at a minimum, receive annual training on issues related to Sexual Misconduct and on how to conduct an Investigation and hearing that protects the safety of victims and promotes accountability.

II. INTAKE AND INITIAL PROCESS

Intake Meeting

When a Formal Complaint or report is received under this Policy, the Title IX Coordinator will schedule an Intake Meeting with the Complainant in order to discuss options for resolution and resources available.

Initial Determination

Following the Intake Meeting, or upon receipt of notice from the Complainant that they do not wish to participate in the Intake Meeting, the Title IX Coordinator will review the reported information in order to: (1) evaluate the risk of harm to the Complainant and the College community; and (2) determine whether the report warrants further action (the "Initial Review").

In some cases, limited fact gathering may be needed. The determination as to whether to initiate an Investigation will take into account the nature of the alleged conduct and, if applicable, any request by the Complainant that the matter not to be investigated or for confidentiality, as discussed above.

If the Title IX Coordinator decides not to conduct an Investigation or to conduct a limited Investigation, the Title IX Coordinator will memorialize that decision in a written statement of reasons and will notify the Complainant of that determination.

If an Investigation is opened, the Title IX Coordinator will notify the Complainant and Respondent simultaneously in writing of the alleged violation(s) being investigated and provide both parties with a written explanation of their rights and options during the resolution process, including the availability of Interim Measures and support services. The College may continue the process without the Complainant's and/or Respondent's participation.

III. REMEDIAL AND PROTECTIVE MEASURES

The College may implement remedial and protective measures for the parties involved and/or for the College community, and avoidance of Retaliation. The College will offer reasonable and appropriate measures to protect the parties and facilitate their continued access to the College's programs and activities. Remedial and protective measures may be temporary or permanent and are available regardless of whether the Complainant files or continues to pursue a Formal Complaint.

The Title IX Coordinator has the discretion to determine what remedial and/or protective measures are appropriate. Failure to abide by remedial and protective measures will result in prompt and appropriate enforcement.

Interim Measures will not disproportionately impact the Complainant.

Types of Remedial and Protective Measures

Examples of remedial and protective measures that may be imposed by the College upon notice of a violation of this Policy include, without limitation:

- no-contact order;
- ban from campus;
- counseling and/or medical services;
- academic support;
- adjustments to living arrangements;
- campus escort;
- academic- and/or work-schedule and assignment accommodations;
- safety planning; and
- referral to campus and community support resources.

Violations of no-contact orders and failures to comply with other Interim Measures may result in disciplinary consequences pursuant to applicable procedures.

Interim Suspension or Separation

In certain circumstances, the College may place a student or employee on interim suspension. Pending the resolution of the incident, the individual may be denied access to campus, campus facilities and/or all College activities or privileges.

Requests for Interim Measures may be made by or on behalf of the Complainant to any College official responsible for Title IX compliance, who will be responsible for ensuring the implementation of appropriate interim steps and coordinating the College's response to those requests with the appropriate offices on campus.

Interim measures will not disproportionately impact the Complainant. Interim measures are available even if the Complainant does not file or continue to pursue a Formal Complaint.

1. Students

If the Title IX Coordinator determines that the continued presence of the student on the College campus poses a substantial and immediate threat of harm to the safety or well-being of an individual, the broader College community, or to the performance of normal College functions, an interim suspension may be imposed effective immediately without prior notice.

If the situation does not meet the above criteria, a hearing shall be held to provide the Respondent with the opportunity to demonstrate why the interim suspension should not be imposed (a "Show-Cause Hearing").

2. Employees

The Title IX Coordinator may request that an employee be suspended or assigned other duties pending the outcome of the Investigation. Such request shall be made to the Provost (faculty) or Director of Human Resources (non-faculty staff) and proceed in accordance with the appropriate handbook and/or applicable policies and procedures.

██████ Notice of Rights

Upon receipt of a Formal Complaint or report, the Title IX Coordinator or a designee will provide written notice to the Complainant of the Interim Measures that may be available and feasible.

Similar notice will be provided to the Respondent upon the initiation of an Investigation.

IV. INFORMAL RESOLUTION

The parties will be notified of available options for reaching an Informal Resolution of a Formal Complaint.

██████ Eligibility

If the Complainant and Respondent agree, certain cases may be resolved informally, including, in appropriate cases, through mediation. Cases involving allegations of Sexual Assault or Sexual Violence are not suitable for mediation. Cases involving a student Formal Complaint of Sexual Harassment made against an employee are not eligible for Informal Resolution.

The Title IX Coordinator will determine if the case is appropriate for submission to the Informal Resolution process based on the facts and circumstances of the particular case. The Title IX

Coordinator will oversee all Informal Resolutions. Under no circumstance will a Complainant be asked to resolve a matter directly with the Respondent.

██████████ The Informal Resolution Process

Both parties will have equal and timely opportunity to review any information that will be used in the Informal Resolution process, consistent with FERPA and to protect other confidential and privileged information.

Either party may withdraw his or her or their agreement to proceed informally at any time prior to agreeing to a resolution and begin the Formal Complaint process.

Each party has the right to choose and consult with an advisor, who may be any person, including an attorney, who is not otherwise a party or witness to the reported incident(s). An advisor may attend any meeting or proceeding held as part of the Informal Resolution process, provided that he or she first meet with the Title IX Coordinator to discuss the process.

An advisor may provide support and advice to the party but may not speak on behalf of a party or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

Both parties will have access to a neutral staff member within the College to explain and answer any questions about the disciplinary process.

██████████ Outcome

If both parties are satisfied with a proposed Informal Resolution and the Title IX Coordinator concludes that the resolution will satisfy the College's obligation to provide a safe and discrimination-free environment, the resolution will be implemented and the process will be concluded. Both parties will receive, in writing and at the same time, notification of the outcome of the Informal Resolution process.

If Informal Resolution efforts are unsuccessful, the formal process may be initiated. In such instances, the Complainant, Respondent, or the College may pursue the formal process by submitting a written request to the Title IX Coordinator within five (5) business days of the date of receipt of the informal outcome letter.

██████████ Timeframe

The timeframe for completion of the Informal Resolution process may vary, but the College will seek to complete the process within sixty (60) business days of the College's receipt of the Complainant's request. The Complainant and Respondent will receive written notification of the outcome within (30) business days, while the College is in session, of decision.

██████████ Mandatory Dismissal of Formal Complaint After Investigation

The College must dismiss the Formal Complaint if after the Investigation it is determined by the Title IX Coordinator that the conduct alleged in the Formal Complaint does not constitute Title IX Prohibited Conduct or did not occur against a person in the United States.

Discretionary Dismissal

The College may dismiss the Formal Complaint if (i) the Respondent is no longer enrolled or employed by the College; (ii) specific circumstances prevent the College from gathering sufficient evidence to reach a determination; or (iii) the Complainant informs the Title IX Coordinator in writing that the Complainant wants to withdraw the Formal Complaint.

A Complainant may notify the Title IX Coordinator at any time that the Complainant does not wish to proceed with the Investigation and/or hearing process. If such a request is received, the Title IX Coordinator will inform the Complainant that the College's ability to respond to the allegations may be limited if the allegations are withdrawn.

The Title IX Coordinator will determine whether to terminate the Investigation and/or hearing process. In the event that the Title IX Coordinator determines that the Investigation will continue, the Title IX Coordinator will notify the Complainant of that determination. The Title IX Coordinator will include in that notification a statement that the Complainant is not required to participate in the Investigation and/or hearing process but that the process will continue. In the event that the Title IX Coordinator determines that the Investigation will be terminated, both parties will be notified.

Resolution Without a Hearing

Resolution without a hearing can be pursued at any time during the process. The Title IX Coordinator will provide written notification of an Investigation to the Respondent and will meet with Respondent to explain the findings.

Thereafter, Respondent may choose to admit responsibility for all or part of the violations at any point during the process. If all charges are admitted by the Respondent, The Title IX Coordinator will render a finding that the Respondent is in violation of the College's Policy for the admitted conduct. If the charges are admitted in part, the remaining charge(s) will proceed to the formal hearing process.

For admitted violations, Title IX Coordinator will recommend an appropriate sanction or responsive action. If the sanction/responsive action is accepted by the Complainant and Respondent, the Dean of Students, Vice President of Academic Affairs/ Provost or Human Resources will implement it, and act promptly and effectively to remedy the effects of the admitted conduct upon the victim and the community. If either party rejects the sanction/responsive action, a hearing will be held on the sanction/responsive action only, according to the hearing procedures below, except in the case of at-will employees for whom findings and responsive actions will be determined by Human Resources.

Formal Hearing

Formal Complaints that are not appropriate for Informal Resolution due to the nature of the allegations or the parties' failure to mutually and voluntarily submit to Informal Resolution will be referred for a formal hearing, as detailed below.

V. INVESTIGATION

An Investigation made under this Policy is commenced when a Formal Complaint is filed pursuant to this Policy.

When an Investigation is initiated, the Title IX Coordinator will direct information to the Investigator to conduct an Investigation. The Investigator(s) undertake an investigation for the purposes of adjudicating whether the Respondent is responsible for the alleged violation(s).

■■■■ Notice of Investigation

The Title IX Coordinator or designee will issue a Notice of Investigation to the Complainant and Respondent advising them of the commencement of the College's Investigation. The Notice of Investigation will contain: (1) a summary of the allegations or conduct being investigated, (2) the potential Policy violations for this misconduct, (3) the range of potential sanctions, and (4) the name of the Investigator(s).

Within 6 to 7 business days from the date of the Notice of Investigation, the Respondent must meet with the Title IX Coordinator. During this meeting, the Title IX Coordinator will:

- Discuss the nature of the Formal Complaint and provide the Respondent with a copy of the Formal Complaint;
- Inform the Respondent of their rights and responsibilities during the Investigation and determination process;
- Advise the Respondent of any Interim Measures that have been imposed;
- Instruct the Respondent not to destroy any potentially relevant evidence;
- Explain the College's prohibition against Retaliation; and
- Provide Respondent with a copy of the Policy and these Procedures.

Failure to meet with the Title IX Coordinator will not stop or delay the Investigation.

■■■■ Cooperation During an Investigation

All members of the College community are required to cooperate with an Investigation. Failing to cooperate may result in disciplinary action, up to and including, expulsion, termination of employment, or termination of other contract or relationship with the College.

Nothing in this section shall preclude either the Complainant or Respondent from declining to participate in the Investigation. However, the Investigation may proceed and a determination of responsibility and imposition of sanctions may occur without the participation of one or both parties.

■■■■ Presumption of Non-Responsibility

An Investigation is a neutral fact-gathering process. The Respondent is presumed not responsible and this presumption may only be overcome where the Investigator concludes (by a

preponderance of the evidence) that the Respondent engaged in the Prohibited Conduct. The Respondent's decision not to participate in the Investigation when there are potential criminal charges pending will not be given an adverse inference by the Investigator.

██████████ Withdrawal of Complaint

The Complainant may withdraw their Formal Complaint any time prior to the Investigator making the determination whether Respondent violated the Policy. Withdrawal of the Formal Complaint, will in most circumstances, end the Investigation. The College will provide written notice to both parties and the reasons for dismissal. The College, however, reserves the right to move forward with the Formal Complaint, even after the Complainant withdraws it, when circumstances require such action in order to protect the interests and safety of the College community.

██████████ Evidentiary Matters

The Investigation will be adequate, reliable, and impartial and will include interviews with the Complainant and Respondent and any relevant witnesses, as well as a review of other relevant evidence. The Investigation also will include an equal opportunity for the parties to present witnesses and other evidence and equal access to information being considered in a manner that is consistent with FERPA.

Evidence of the effects of off-campus conduct will be considered when evaluating whether there is a hostile environment on campus.

1. Evidentiary Standard

The Investigator's determination will be made using a preponderance of the evidence standard.

2. Sexual History of the Parties

The Claimant's or Respondent's sexual history will never be used to prove character or reputation. However, prior sexual history may be considered under the following limited circumstances:

- Where there was a prior or ongoing relationship between the Complainant and Respondent and the Respondent asserts that Consent was sought and given during the incident under Investigation. The prior sexual history between the parties may be relevant under these circumstances to assess the manner and nature of communication between the parties. However, even in the context of a relationship, Consent to one sexual act does not, by itself, constitute Consent to another sexual act; and Consent on one occasion, does not, by itself, constitute Consent on a subsequent occasion.
- To establish a pattern or practice of conduct similar in nature by the Respondent.
- To prove that someone other than the Respondent committed the alleged misconduct.
- Where relevant in limited circumstances, such as to explain injury.

When the Investigator intends to consider evidence of prior sexual history as part of the Investigation, such evidence will be included in the Preliminary Investigation Report and the parties will have an opportunity to challenge its relevance and whether it should be considered in the Investigator's determination of responsibility.

3. Medical and Counseling Records

Medical and counseling records are privileged and confidential documents that students will not be required to disclose. However, the parties may provide the College with their voluntary, written consent to access and use the medical and counseling records.

██████████ Preliminary Investigation Report

At the conclusion of the Investigation, the Investigator will prepare a Preliminary Investigation Report, which details the relevant content from the interviews conducted and evidence gathered, but does not include a determination of whether a Policy violation occurred. Absent good cause, the Investigator will use their best efforts to complete the Investigation within sixty (60) calendar days.

The Investigator will arrange for the parties to separately review the Preliminary Investigation Report. To comply due process and privacy obligations, the parties will not receive a written or electronic copy of the Preliminary Investigation Report and may not photograph or copy the document. The parties, however, are permitted to take notes on the content and ask any questions to the Investigator or designee. When a party is unable to review the Preliminary Investigation Report in-person, at the Title IX Coordinator's discretion, the party may receive a copy of the Report in a redacted format.

The Complainant and Respondent will have equal opportunity to review the Preliminary Investigation Report, to meet with the Investigator, to submit additional comments and information to the Investigator, to identify any additional witnesses or evidence for the Investigator to pursue, and submit any further questions that they believe should be directed by the Investigator to the other party or to any witness.

The parties will have at least ten (10) days from the date of the notice to review the Preliminary Investigation Report submit their written response to the Investigator. This is the final opportunity for the parties to identify any additional information or witnesses and to review their statements for accuracy. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator at this juncture will not be considered in the determination of responsibility for a violation of the Policy.

██████████ Investigative Finding

Unless there are significant additional investigative steps requested by the parties or identified by the Investigator, within 8 to 35 business days after receipt and consideration of additional comments, questions, and/or information from the parties, the Investigator will issue a Final Investigation Report, which will include a determination as to whether the Respondent is responsible for violation(s) of the Policy.

The finding of responsibility will be based on the Investigator's assessment of the evidence gathered during the Investigation and apply the preponderance of the evidence standard. All information relied on by the Investigator shall be included in the Final Investigation Report.

The Investigator shall deliver the Final Investigation Report to the Title IX Coordinator, who will issue a Notice of Investigative Finding to the parties in either electronic or hardcopy form. The Notice of Investigative Finding shall contain the Investigator's determination of responsibility and advise that the Final Investigation Report is available for the parties' review.

1. Finding of Responsibility

If the Investigator determines that the Respondent is responsible for a Policy violation, then the Final Investigation Report shall also include a recommendation for sanctions and remedies. If requested by the Complainant, the College will promptly implement a one-way no-contact order (with the burden of no contact on the Respondent), even if an appeal may be filed, or has been filed and is pending.

If the Respondent is found responsible for violating the Policy, the Notice of Investigative Finding will explain the process for determining sanctions and the matter will be referred to the Hearing Panel.

2. Finding of Non-Responsibility

If the Investigator determines that Respondent is not responsible for violating the Policy, the Investigator may recommend additional remedies for the Complainant that do not unduly burden or prejudice the Respondent. If the Respondent is found not responsible for violating the Policy, the Notice of Investigative Finding also will include procedures for appeal.

VI. DETERMINATION OF SANCTIONS

██████ Hearing Panels

The role of the Hearing Panel is to review the information presented in the Investigation Report and preside over the live hearing to determine whether the accused violated the Policy and, if yes, to determine the appropriate sanction(s).

1. Panel Members

The Title IX Coordinator will appoint a standing pool of trained members of the College community to serve on Title IX Hearing Panels. The Hearing Panel will include one (1) non-voting Hearing Panel Chair and three (3) members of the Hearing Panel. Hearing Panels may include both faculty and non-faculty employees, with at least one (1) faculty employee in an Investigation of a faculty member. Students may not serve on a Hearing Panel.

The parties will be informed of the Hearing panel's members before the hearing and shall have **three (3)** business days to object to the participation of any member based on a conflict of interest.

2. Role of the Chair

The Hearing Panel Chair presides over the Hearing Panel as a non-voting member. The Chair is responsible for the administration of the hearing process, including procedural matters and decisions leading up to the hearing, determinations about information that will be considered or not, appropriate and inappropriate lines of questioning, and the overall decorum and conduct of the proceedings.

Hearing Process and Deliberations

Upon review of the Investigative Report, the Hearing Panel may: (i) determine that the case can be decided without hearing from witnesses or receiving further evidence; (ii) remand the case for further investigation or clarification of the Investigative Report; or (iii) convene a hearing.

If the Hearing Panel determines that the case can be decided without hearing from witnesses or receiving further evidence, both Complainant and Respondent will have the opportunity to make a statement to the Hearing Panel if they so choose.

1. Access to Proceedings

The hearing is a closed proceeding, meaning that no one other than Hearing Panel members and necessary College personnel may be present. The Complainant and Respondent, their respective advisors, and witnesses called to the hearing will be present in the hearing room only when making a statement or being questioned by the Hearing Panel. If a party does not have an advisor present at the live hearing, the College must provide, without fee or charge to that party, an advisor of the College's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party. At the request of either party, the College must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.

Deliberations of the Hearing Panel will be closed and private.

2. Procedures

In general, hearings will proceed as follows and will be recorded and/or transcribed, although the Chair has discretion to alter the order or manner in which the Hearing Panel hears or receives evidence:

- Opening statement by Complainant
- Questioning of the Complainant by the Respondent's advisor
- Questioning of the Complainant by the Hearing Panel
- Opening statement by Respondent
- Questioning of the Respondent by the Complainant's advisor
- Questioning of the Respondent by the Hearing Panel

- Questioning of witnesses, if any, by the advisors and then the Hearing Panel, with Complainant witnesses going first and Respondent witnesses following
- Closing statement by Complainant
- Closing statement by Respondent

At the live hearing, the Hearing Panel Chair must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including that challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Hearing Panel Chair must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the live hearing, the Hearing Panel must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

The Hearing Panel may ask questions. The presumption is that the information necessary to render a decision and arrive at an appropriate sanction is in the Final Investigative Report, and so extended statements or questioning should be unnecessary.

A party who wishes to present testimony of witnesses may request to do so by identifying in writing, provided to the Hearing Panel Chair, the name and summary of the anticipated testimony for each proposed witness at least ten (10) business days before the hearing. The Hearing Panel Chair will provide the other party with notice of the request.

The Hearing Panel Chair has discretion to decide whether witnesses are appropriate in light of the nature of the hearing and the Investigation Report. The Hearing Panel Chair also may permit testimony to be presented in written form instead of live testimony. Live testimony of character witnesses may not be presented. However, the Hearing Panel may accept up to two letters supporting the character of any party.

3. Official Record

Hearings are recorded by the College. Hearing Panel members, the parties, and appropriate administrative officers may listen to the recording in a location determined by the Title IX Coordinator. No copies of the recording may be made.

4. Decision

The Hearing Panel will convene to deliberate and render a decision, by majority vote, regarding whether or not the Respondent has violated the Policy by a preponderance of the evidence. No Hearing Panel member may abstain.

The Hearing Panel Chair prepares the Hearing Panel's written decision and rationale, including a

finding of responsibility or non-responsibility, and, if applicable, the sanction and rationale.

If the voting Hearing Panel members find the Respondent not responsible, within seven (7) business days, the Hearing Panel will simultaneously send the determination, with the reasons for the decision, to the Complainant and Respondent, with a copy to the Title IX Coordinator. If the voting Hearing Panel members find the Respondent responsible, it will proceed to the sanctioning phase described in this section.

5. Notice of Right to Appeal

The Hearing Panel will notify the parties in writing of their opportunity to appeal in accordance with the procedures set forth below. The notice will inform each party that they have the right to participate equally in the appeal process, even if the party has not filed an appeal.

Sanctions

If the voting Hearing Panel members determine that the Respondent is responsible for one or more violations of the Policy, it will then deliberate as to an appropriate sanction. The Hearing Panel will be permitted to consider prior policy violations in determining an appropriate sanction.

If a Respondent is found responsible and the sanction includes separation, they will be immediately removed from campus residentially and (depending on circumstances) either severely restricted in their movements on campus (e.g., only able to attend classes and labs) or barred completely during the entirety of the appeal process.

1. Factors for Sanction Determination

Factors that may be considered when determining a sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation;
- The circumstances accompanying any lack of Consent;
- The Respondent's state of mind (bias-motivated, reckless, negligent, etc.);
- The Respondent's prior disciplinary history;
- The safety of the College community;
- The Respondent's conduct during the Investigation and resolution process;
- The need for sanctions to bring an end to and prevent Discrimination, Harassment and/or Retaliation;
- The need to remedy the effects of the Discrimination, Harassment and/or Retaliation on the Complainant and the College community; and
- Such other factors as the Hearing Panel deems appropriate.

2. Student Sanctions

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

- *Verbal or Written Warning:* A formal statement that the behavior was unacceptable and warning that further infractions of any College policy, procedure, or directive will result in more severe sanctions.
- *Denied Access:* Denial of the student's right to be in specific areas of the campus or a specified period of time (i.e. exclusion from a residence hall, game room). Termination of the housing contract is not a censure of denied access under this provision.
- *Probation:* A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any College policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at College. This sanction will be noted as a Conduct Suspension on the student's official transcript.
- *Expulsion:* Permanent termination of student status, revocation of rights to be on campus for any reason or attend College-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma.* The College may withhold a student's diploma for a specified period of time and/or deny a student's participation in commencement activities if the student has a grievance pending, or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree.* The College reserves the right to revoke a degree awarded from the College for violation(s) committed prior to graduation.
- *Organizational Sanctions.* Deactivation, de-recognition, loss of all privileges (including registration), for a specified period of time.
- *Other Actions:* In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

3. Employee Sanctions

An employee who is found to have violated this Policy will be subject to any available appropriate disciplinary action, including but not limited to warning, mandatory counseling and/or training, demotion, suspension with or without pay, and termination.

Failure to Comply with Sanctions

Failure to fully comply with sanctions issued by the Hearing Panel constitutes a violation both of this Policy and of other applicable policies, such as the Student Code of Conduct. Failure to so comply may result in the issuance of additional sanctions.

Evidentiary Standard

In making its findings, the Hearing Panel will use and apply the preponderance of the evidence standard.

VII. APPEALS

Grounds for Appeal

The Complainant and Respondent have the right to appeal final determination of responsibility and/or the resulting sanction based on the limited grounds of: (i) substantial procedural error that materially affected the outcome; (ii) new evidence not reasonably available at the time of the hearing; and (iii) Title IX personnel had conflict of interest or bias that affected the outcome of the matter.

Request for Appeal

Written requests for appeal must be submitted within three (3) business days following delivery of the notice of the outcome. Each party may respond in writing to any appeal submitted by the other party. Written responses must be submitted within three (3) business days following delivery of the notice of the written appeal. Written requests for appeal submitted by one party will be shared with the other party.

Appeal Procedures

Appeals are heard by a neutral third party. The appeal will be conducted in an impartial manner by impartial decision makers trained in Title IX and in issues of Sexual Misconduct.

Appeal decisions are deferential to the original decision, reversing or remanding the finding(s) only where there is clear error and to the sanction only if there is a compelling justification to do so. To that end, appeals are not intended to be a full rehearing of the Investigation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original Hearing Panel for reconsideration.

The appeal panel's responsibility will be strictly limited to determining if there was substantial procedural error that materially affected the outcome and/or new evidence not reasonably available at the time of the hearing. If either or both are found by the appeal panel, the appeal will be granted.

If the appeal is granted due to a substantial procedural error, the matter will be heard by a new Hearing Panel. If the appeal is granted due to the discovery of new evidence not reasonably

available at the time of the initial hearing, the matter will be returned to the same Hearing Panel which originally heard the matter for reconsideration in light of the new evidence.

If the appeal is denied, the matter is closed.

In the event of a reconsideration, the appeal panel will give the Hearing Panel instructions regarding the nature and extent of its reconsideration. The Hearing Panel will act promptly to reconsider the matter consistent with those instructions. Following reconsideration, the finding of the Hearing Panel or the sanction imposed by the Hearing Panel will be final and not subject to further appeal.

Appeals are expected to be decided within ten (10) business days, while the College is in session, of the College's receipt of the appeal request.

TIMEFRAME FOR COMPLETION OF INVESTIGATION AND DISCIPLINARY PROCESS

The College cannot promise the definitive timeframe of this process, but ordinarily will complete its Investigation and disciplinary process, if any, within sixty (60) days. This timeframe does not include the time relating to an appeal.

The U.S. Department of Education has made clear that the length of investigations may vary with the complexity and unique factors in each case. Examples of such factors include, without limitation, circumstances in which critical witnesses are unavailable or if law enforcement requests the College temporarily halt its Investigation for a brief period of time. Accordingly, all timeframes set forth in this policy may be altered by the Title IX Coordinator for good cause. The College's overarching goal is that all Formal Complaints be investigated in a prompt, fair, and impartial manner.

The College will comply with requests by law enforcement, which may require the College to temporarily suspend for a short period the fact-finding aspect of an Investigation while the law-enforcement agency is in the process of gathering evidence. The College will promptly resume its Investigation as soon as it is notified by the agency that it has completed the evidence-gathering process.

Any extension(s) of the sixty-day timeframe and the reason for the extension will be shared with the parties in writing.

I. RECORD RETENTION

Records related to the Investigation and resolution of reported incidents of Prohibited Conduct are maintained by the Title IX Coordinator. The Office of Student Affairs shall maintain records of any sanctions and/or remedies in accordance with the College's record-keeping policies and protocols for the retention of student-conduct files. The Office of Human Resources shall maintain records of any discipline and/or remedies in accordance with the College's record-keeping policies and protocols for the retention of personnel records.

Records shall be maintained for at least as long as the individual remains a student or employee of the College. Documents generated during the Investigation, live hearing, and/or appeal will be preserved as part of the record. Audio recordings of a Hearing Panel proceeding will be included in the preserved record and will not be deleted while the Complainant and/or Respondent remain affiliated with the College.

APPENDIX A: TITLE IX TEAM MEMBERS

<p>Dawn Howard-Bailey Title IX Coordinator (302) 736-2306 Email: Dawn.Howard-Bailey@wesley.edu</p>	<p>Dean Wanda Anderson Deputy Coordinator for Student Conduct (302) 736-2506 Email: Wanda.Anderson@wesley.edu</p>
<p>Garrick Cornish Title IX Investigator (302) 736-2436 Email: Garrick.Cornish@wesley.edu</p>	<p>Open Deputy Coordinator for Disability Services and Support Programs (302) 736-2739 Email: Justin.Berg@wesley.edu</p>
<p>Angie Fowler Title IX Investigator (302) 736-2436 Email: Angie.Fowler@wesley.edu</p>	<p>Dr. Jack Barnhardt Faculty Liaison (302) 736-2327 Email: jack.barnhardt@wesley.edu</p>
<p>Erika Hodges-Baines Title IX Investigator (302) 736-2436 Email: Erika.Hodges-Baines@wesley.edu</p>	<p>Bill Gorrow Central Coordinator for Athletic Compliance (302) 736-2405 Email: bill.gorrow@wesley.edu</p>
	<p>Latoya Anderson Title IX Administrator (302) 736-2585 Email: latoya.anderson@wesley.edu</p>

APPENDIX B: CONFIDENTIAL AND SUPPORT RESOURCES

Confidential Resources

Counseling Services Coordinator	TBD	(302) 736-2445
Health Center Coordinator	Jiggy Patel	(302) 736-2521
Chaplin	Pastor Bonniekaren Mullen	(302) 736-2473

Off Campus Resources

Contact Lifeline		(800) 262-9800
Dover Police Department, 911		(302) 736-7111

Anonymous Reporting Form

<http://wesley.edu/campus-services/student-affairs/alerts/anonymous-incident-form>

APPENDIX C: TITLE IX POLICY

<http://wesley.edu/about/title-ix-information>

APPENDIX D: STUDENT CODE OF CONDUCT

<https://wesley.edu/about/student-conduct-information>

Additional Resources for International Students

<http://knowyourix.org/title-ix/title-ix-and-immigration/> <https://www.ilrc.org/u-visa-t-visa-vawa>

<http://icwclaw.org/services-available/violence-against-women-act-vawa/>