



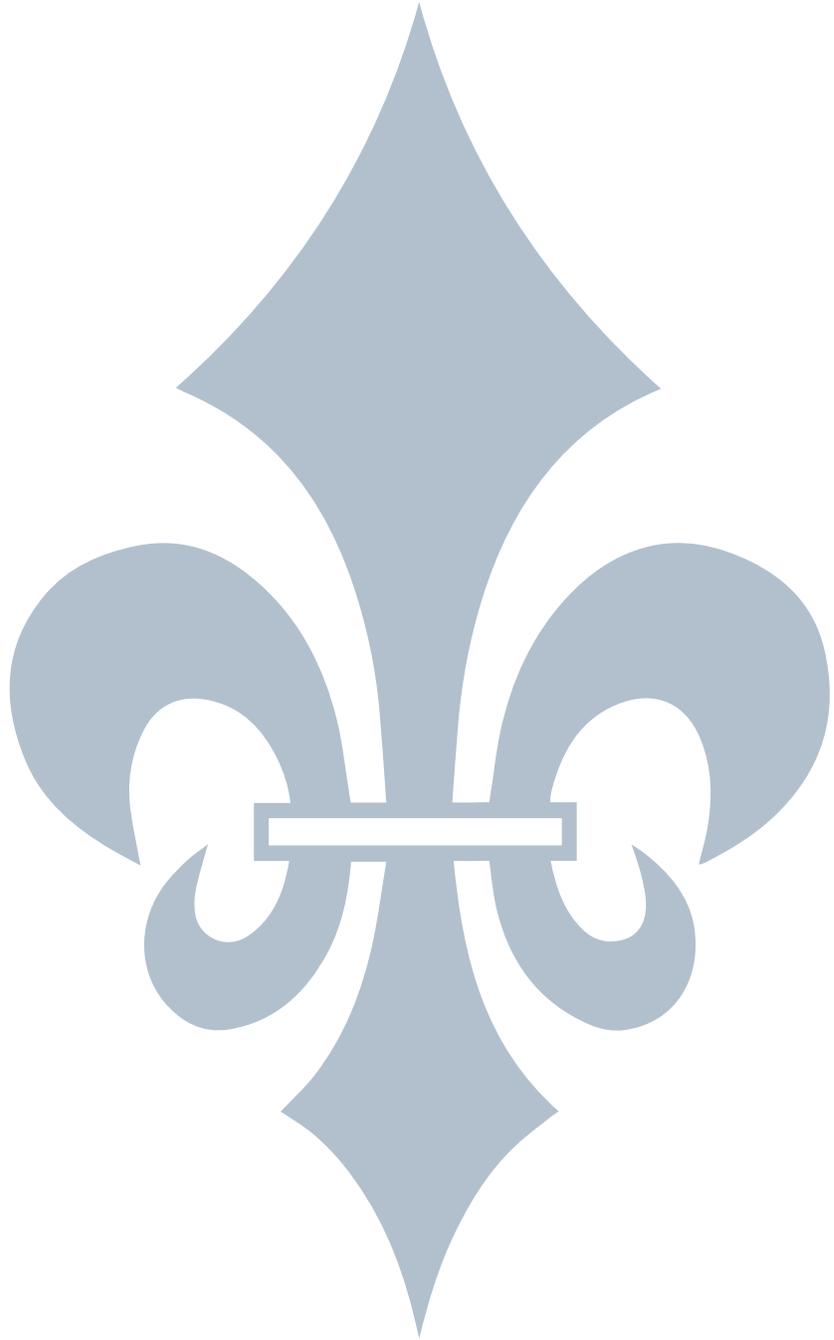
**MARYMOUNT**  
UNIVERSITY

# Marymount University Sexual and Interpersonal Misconduct Policy and Resources

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Applies to all forms of sexual harassment, sexual violence, intimate partner violence, stalking, and retaliation.

**2017 - 2018**



## Marymount University Sexual and Interpersonal Misconduct Policy

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any federally funded education program or activity. Sexual harassment, sexual violence, intimate partner violence, and retaliation may all be forms of sex discrimination.

Marymount University (“the University”) will not tolerate any sexual harassment, sexual violence, stalking, or intimate partner violence, or retaliation (“Prohibited Conduct”). The University’s Title IX Coordinator oversees the resolution of all misconduct covered by this Sexual and Interpersonal Misconduct Policy (“Policy”).

To make a report or discuss any aspect of the Policy, please contact the Title IX Coordinator at:

### Marymount University Title IX Coordinator

Angela Nastase, JD | (703) 526-6940

TITLEIX@marymount.edu

### How to Get Help if You Have Been Sexually Assaulted:

Any member of the University community who has experienced such conduct is urged to seek immediate medical assistance and/or contact law enforcement. Below is a listing of available emergency response, medical treatment, and confidential counseling options.

Emergency Response	
<b>Emergency Law Enforcement Response</b>	911 (from anywhere) to reach <ul style="list-style-type: none"> <li>◆ Arlington Police Department</li> <li>◆ Fairfax County Police Department (Reston Campus is in Fairfax County)</li> </ul>
<b>Marymount University Office of Campus Safety &amp; Emergency Management</b> Main Guardhouse – Lee Highway Entrance	703-284-1600 <ul style="list-style-type: none"> <li>◆ Hours: 24/7</li> </ul>
<b>Marymount University Ballston Center and 4040 Center - Campus Safety</b>	703-284-5900 <ul style="list-style-type: none"> <li>◆ Hours: 7:00 am – 11:00 pm, M-F</li> <li>◆ Saturday: 8:00 am – 6:00 pm</li> </ul>
<b>Inova Fairfax Hospital</b> 3300 Gallows Road Falls Church, Virginia 22042	703-776-6666 <ul style="list-style-type: none"> <li>◆ Provides medical treatment and Sexual Assault Nurse Examiner (Closest SANE)</li> </ul>
<b>Inova Alexandria Hospital</b> 4320 Seminary Road Alexandria, Virginia 22304	703-504-3000 <ul style="list-style-type: none"> <li>◆ Provides medical treatment and Sexual Assault Forensic Exams</li> </ul>
<b>MedStar Washington Hospital Center Emergency</b>	202-742-1736 or 800-641-4028 <ul style="list-style-type: none"> <li>◆ On-Call Sexual Assault Nurse Examiner (24/7)</li> <li>◆ D.C. SANE Program Office</li> <li>◆ Hours: 9:00 am – 1:00 pm, M-F</li> </ul>
<b>Marymount University Student Health Center</b> Berg Hall, BERG 1014	703-284-1610 <ul style="list-style-type: none"> <li>◆ Provides medical treatment</li> <li>◆ Hours: 8:30 am – 5:00 pm, M-F</li> <li>◆ Summer: 10:00 am – 4:00 pm, M-F</li> </ul>

# Understanding the Choice between Confidential Resources and Making a Report of Prohibited Conduct to the University

There is a distinction between reporting to a confidential resource and making a report of Prohibited Conduct to the University. Any individual may choose to seek support from professionals on campus and in the community who hold a legally-recognized privilege of confidentiality, such as counselors, medical health providers, clergy, and rape crisis counselors. Speaking with a confidential resource does not constitute a report to the University of Prohibited Conduct. In contrast to a confidential resource who has a legally-recognized privilege of confidentiality, all other University employees, including faculty members, are considered responsible employees and are required to share information with the Title IX Coordinator.

## Confidential Resources

The trained professionals designated below can provide counseling, information, and support under legally protected confidentiality privileges. Because these relationships involve privileged conversations, these confidential resources will not share information about a patient/client (including whether or not that individual has received services) with the Title IX Coordinator, or any other employee of the University without the individual's express written permission, and cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure. For example, information may be disclosed when: (1) the individual gives written consent for its disclosure; (2) there is a concern that the individual will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor (under the age of 18).

On-Campus Confidential Resources	
<b>Marymount University Counseling Center</b> Berg Hall, BERG 1014 counselingcenter@marymount.edu	703-526-6861 ♦ Provides 24/7 confidential psychological counseling; group counseling; outreach activities; crisis intervention; consultation ♦ Office Hours: 9:00 am – 5:00 pm, M-F
<b>Marymount University Student Health Center</b> Berg Hall, BERG 1014	703-284-1610 ♦ Provides medical treatment ♦ Office Hours: 8:30 am – 5:00 pm, M-F
<b>Marymount University Campus Ministry</b> Rev. Tom Yehl, University Chaplain The Lodge, Room 1003	Direct: 703-284-1607 ♦ Hours: 7:30 am – 5:00 pm, M-F After-Hours Emergency: 571-581-8126
Off-Campus Confidential Resources	
<b>Doorways for Women and Families</b> <b>24-hour Sexual Violence Hotline</b>	703-237-0881 www.doorways.va.org
<b>Arlington County Rape/Domestic Violence</b>	Hotline: 703-228-4848 ♦ Provides advocacy, shelter, and crisis counseling
<b>Fairfax County Domestic and Sexual Violence</b>	Hotline: 703-360-7273 (24/7) ♦ Provides telephone counseling information on domestic and sexual violence issues
<b>Virginia State Domestic &amp; Sexual Violence Hotline</b>	Hotline: 800-838-8238 (24/7)
<b>National Domestic Violence Hotline (NDV)</b>	Hotline: 800-799-7233 (SAFE)
<b>Marymount University Employee Assistance Program for Faculty and Staff</b>	888-267-8126 (24/7) connection to a professional counselor or lifeworks on-line assistance: www.lifeworks.com

## Reporting Prohibited Conduct at Marymount University

Reporting Options	
<b>Title IX Coordinator</b> 2807 N. Glebe Road The Lodge, Room 2005	<b>Angela Nastase, JD</b> 703-526-6940 TITLEIX@marymount.edu
<b>Marymount University Office of Campus Safety &amp; Emergency Management</b> Main Guardhouse – Glebe Road Entrance	703-284-1600 Hours: 24/7 campus.safety@marymount.edu
<b>Deputy Title IX Coordinators</b>	<b>Aline Orfali</b> , International Student Services Gerard Hall, Room 1030 703-284-5797 aline.orfali@marymount.edu
	<b>Gene Deane</b> , Information Technology Services Reinsch Library, Room G15 703-526-6907 gene.deane@marymount.edu
	<b>Bridget Murphy</b> , Arts & Sciences Gailhac, Room G10 703-284-6479 bridget.murphy@marymount.edu
	<b>Sarah Gustin</b> , Athletics Rose Bente Lee Center, Room 412 703-284-3334 sgustin@marymount.edu
	<b>Tina Sheppard</b> , Student Affairs 703-284-1609 Berg Hall, Room 1010 sheppard@marymount.edu

### Resolution of a Report of Prohibited Conduct

Upon receipt of a report of Prohibited Conduct, the University will take prompt and effective action by: (1) providing appropriate interim remedies and support for individuals who make a report of Prohibited Conduct or seek assistance under this Policy; (2) conducting a review of the reported conduct under Title IX of the Education Amendments of 1972; and (3) addressing the safety of individuals and the campus community; and (4) as warranted, pursuing resolution of the reported conduct through remedies based measures or formal disciplinary action against the accused individual. The Policy provides specific procedures for investigation and resolution, depending on whether the Respondent is a student or employee (includes faculty).

Regardless of whether a Complainant chooses to pursue disciplinary action, the University will take appropriate interim measures to protect the parties involved and ensure that all safety, emotional, and physical well-being concerns are being addressed. The University will not tolerate retaliation and will take immediate and responsive action to any report of retaliation or any violation of protective measures.

### Anonymous Reporting

If you are reporting a crime in progress, a past crime, a disturbance, or suspicious activity, please call 911 for emergencies and then Campus Safety at (703) 284-1600. You can also call the Tip Line voice mail system at (703) 247-8345 or Make an Anonymous Report Online. (Information received via the anonymous tip lines are not monitored twenty-four hours a day.)

## **Amnesty for Personal Use of Alcohol or Drugs**

The University seeks to remove any barriers to reporting an act of Prohibited Conduct. The University will generally offer any student, whether the Complainant or a witness or third party, who reports Prohibited Conduct, limited immunity from being charged for Policy violations related to the personal ingestion of alcohol or drugs, provided that any such violations did not, and do not, place the health and safety of any person at risk. The University may choose, however, to pursue educational or therapeutic remedies for those individuals.

## **Protection of Minors and Mandatory Reporting of Suspected Child Abuse**

Under Virginia law, any person employed by a private institution of higher education who, in their professional or official capacity, has reason to suspect that a child is an abused or neglected child, is required to report the matter immediately to child protective services. The University also requires that the information be immediately shared with the Title IX Coordinator and the Director of Campus Safety so the University can ensure timely compliance with Virginia law and enhance the protection of children.

The University will report all suspected child abuse and neglect, including sexual assault, to law enforcement and/or to the Virginia Department of Human Services toll-free child abuse and neglect hotline, at 1-800-522-7096.

It is the University's intent to act quickly regarding all suspected child abuse. For the purposes of this reporting obligation, the word "child" means any individual under the age of 18, and the suspected abuse may involve physical, sexual, or other forms of abuse or neglect, regardless of the identity of the suspected perpetrator. The duty to report is triggered by reasonable suspicion or belief. There is no requirement that you have actual evidence of abuse to report, nor is it the responsibility of any employee, student, or volunteer to investigate suspected child abuse. This is the role of child protective services and law enforcement authorities, who are best positioned to do so.

**All reports of suspected child abuse and neglect, including sexual assault, should be made as follows:**

### **If a child is in immediate danger or immediate suspected danger:**

- ◆ Call 911 to reach the Arlington County Police or Fairfax County Police

### **If there is no immediate danger, call:**

- ◆ Marymount University's Office of Campus Safety: 703-284-1600 and
- ◆ Marymount University's Title IX Coordinator: 703-526-6940

### **These entities will assist in making the mandated child protective services report:**

- ◆ Arlington Police Department: 703-588-2222
- ◆ Arlington Child Protective Services: 703-228-1500
- ◆ Arlington Department of Human Services: 703-228-1300
- ◆ Fairfax County Department of Human Services: 703-324-7400

# MARYMOUNT UNIVERSITY SEXUAL AND INTERPERSONAL MISCONDUCT POLICY

## Table Of Contents

I.	Purpose and Statement of Intent .....	1
II.	Scope of Policy .....	2
III.	Notice of Non-Discrimination and Relevant Laws .....	3
IV.	The Role of the Title IX Coordinator .....	4
V.	Privacy and Confidentiality .....	5
VI.	Prohibited Conduct .....	6
VII.	Understanding Effective Consent: Force, Coercion, Incapacitation, and Alcohol or Drugs .....	10
VIII.	Prohibited Relationships by Persons in Authority .....	13
IX.	Resources and Reporting Options .....	14
X.	Reporting Prohibited Conduct .....	16
XI.	Interim Measures .....	20
XII.	Title IX Review, Assessment and Resolution of Prohibited Conduct .....	21
XIII.	Title IX Investigation and Resolution .....	24
XIV.	Title IX Appeal .....	28
XV.	Additional Considerations .....	29
XVI.	Education and Prevention Programs .....	31

Marymount University students, faculty, and staff are responsible for knowing the information, policies, and procedures outlined in this document. The University reserves the right to make changes to this Policy as necessary in its sole discretion, with or without advance notice, and once those changes are posted on-line, they are in effect. Students, faculty, and staff are encouraged to check on-line for the most complete and current versions of this Policy.

# Marymount University Sexual and Interpersonal Misconduct Policy

## I. Purpose and Statement of Intent

Marymount University is a Catholic institution of higher education, founded by the Religious of the Sacred Heart of Mary (RSHM), and committed to excellence in teaching, learning, scholarship, and service. As such, the University acknowledges specific core values that guide and govern the actions of its community. Sexual harassment, sexual violence, stalking, intimate partner violence, and retaliation in any form, are an affront to human dignity and fundamentally at odds with the values and mission of the University. Ultimately, each member of the University community is expected to assume responsibility for his/her conduct, to report behaviors that may violate this Policy, and to take reasonable and prudent actions to prevent or stop acts of sexual harassment, sexual violence, stalking, intimate partner violence, and/or retaliation.

This Policy prohibits a broad continuum of behaviors, all of which constitute a form of sexual or gender-based harassment, sexual violence, stalking, intimate partner violence, and/or retaliation (“Prohibited Conduct”). In general, sexual violence refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to incapacitation. In general, intimate partner violence includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. Prohibited Conduct that may violate this Policy includes the following: sexual assault, non-consensual sexual contact, interpersonal misconduct (dating violence, domestic violence, and stalking), physical harm and intimidation, sexual exploitation, sexual harassment, harassment/bullying/ or cyberbullying (in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender), retaliation, and/or complicity of an act(s) of Prohibited Conduct.

The University will not condone or tolerate any Prohibited Conduct from any member of the University community. The University will respond according to the severity or pervasiveness or the offense and the threat it poses to the community. Individuals who are found responsible under this Policy may face disciplinary sanctions up to and including expulsion from the University, for students, and/or termination of employment, for University employees or faculty.

The University community has a responsibility to maintain an environment free from harassment. The University is committed to taking all appropriate steps to eliminate Prohibited Conduct, prevent its recurrence, and address its effects. The University is committed to fostering a climate free from sex and gender-based harassment, sexual violence, stalking, intimate partner violence, and/or retaliation through clear and effective policies, coordinated education and prevention programs, and prompt and equitable procedures for resolution that are accessible to all. The University encourages all members of our community to participate in the process of creating a safe, welcoming, and respectful campus environment.

The University will not tolerate retaliation or attempts of retaliation against an individual who makes a report of Prohibited Conduct or participates in an investigation. Retaliation, whether actual or threatened, destroys the sense of community and trust that is central to a quality environment. The University Policy prohibits any forms of reprisals or retaliation and community members engaging in reprisals or retaliation will be subject to disciplinary action, whether such acts are implicit or explicit, or committed directly or indirectly.

The University will make every reasonable effort to stop retaliation immediately, to conduct a complete and thorough investigation of alleged acts of retaliation in a timely manner, to provide remedies to victims of retaliation, and to sanction the perpetrators of retaliation as appropriate.

This Policy provides community members with the structure, tools, and guidance to assist those who have experienced or been affected by Prohibited Conduct whether as a Complainant, a Respondent, or a third party. The Policy has dual purposes: 1) it serves as a guide for all community members on the expectations Marymount has, preventatively, for sexual communication, responsibility and respect; and 2) it serves as a measure to determine, after-the-fact, if behaviors tres passed on community values. This Policy is not a contract. Rather, it presents the policies in effect at the time of

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<sup>1</sup> “Complainant” means the student, employee, or third party who presents as the victim of any Prohibited Conduct under this Policy, regardless of whether that person makes a report or seeks actions under this Policy. “Respondent” is defined as the student or employee alleged to have committed Prohibited Conduct under this Policy. A “third party” refers to any other participant in the process, including a witness to the incident(s) and/or an individual who makes a report on behalf of someone else.

publication and is subject to change by the University at any time.

Prohibited Conduct can be committed by any member of the Marymount University community. The University has jurisdiction to take disciplinary action against a Respondent who is a current student or employee, or a Respondent who was a former student or employee during the time of the alleged Prohibited Conduct.

The University will review the Sexual and Interpersonal Misconduct Policy on an annual basis in order to capture evolving requirements and improve the delivery of services based on a review of each year's experience by the Title IX Coordinator, members of the Title IX Team, Vice President of Student Affairs, and University Counsel.

**Links to the Employee, Faculty, and Student Handbooks can be found here:**

### **University Employee Handbook**

The University Employee Handbook is available on the my.marymount.edu portal:

[http://www.marymount.edu/marymount.edu/media/Home/Faculty-and-Staff/employee\\_handbook.pdf](http://www.marymount.edu/marymount.edu/media/Home/Faculty-and-Staff/employee_handbook.pdf)

Human Resources Services Marymount University, Ireton Hall

703-284-1680

### **University Faculty Handbook:**

The University Faculty Handbook is available on Canvas under Faculty Council:

[http://my.marymount.edu/my.marymount.edu/media/Offices-and-Resources/](http://my.marymount.edu/my.marymount.edu/media/Offices-and-Resources/Planning%20and%20Institutional%20Effectiveness/2016-2017-Faculty-Handbook.pdf)

[Planning%20and%20Institutional%20Effectiveness/2016-2017-Faculty-Handbook.pdf](http://my.marymount.edu/my.marymount.edu/media/Offices-and-Resources/Planning%20and%20Institutional%20Effectiveness/2016-2017-Faculty-Handbook.pdf)

### **Student Community Conduct Code**

The University Student Community Standards is available in print or on the website:

<http://www.marymount.edu/Student-Life/Student-Affairs-Administration/Student-Conduct/Policies>

## **II. Scope of Policy**

This Policy applies to all members of the University community, including students, faculty, staff, administrators, Board members, consultants, vendors, and others engaged in business with the University. Each member of the University community is responsible for conducting themselves in accordance with this Policy and other University policies and procedures.

Visitors to and guests of the University are both protected by this Policy and subject to the restrictions herein. Visitors and guests may initiate a report of Prohibited Conduct committed against them by members of the University community. Visitors and guests may also be permanently trespassed from the University.

All members of the University community have a responsibility to adhere to University policies and local, state, and federal law. Because this Policy is based on shared values, it sets a range of expectations for University students and employees no matter where or when their conduct may take place. Therefore, this Policy applies to behaviors that take place on the campus, at University sponsored events, and may also apply off campus, including study abroad and internship programs, when the administration determines in its discretion that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

- ◆ Any action that constitutes criminal offense as defined by federal or state law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- ◆ Any situation where it appears that a student may present a danger or threat to the health or safety of him/herself or others;
- ◆ Any situation that significantly impinges upon the rights, property, or achievements of self or others, or significantly breaches the peace and/or causes social disorder; and/or
- ◆ Any situation that is detrimental to the educational interests of the University.

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<sup>2</sup> The "Title IX Team" includes the Title IX Coordinator and/or a Deputy Title Coordinator(s), the Vice President of Student Affairs or the Dean of Student Affairs/Student Life, and the Director of Campus Safety and Emergency Management.

This Policy may be applied to Prohibited Conduct that occurs from the time a person accepts enrollment as a student or accepts employment and continues until the student withdraws or graduates or the employee ceases employment, including periods during semester breaks and between semesters. Further, this Policy applies to guests of community members whose hosts may be held accountable for the Prohibited Conduct of their guests.

This Policy also applies to Prohibited Conduct online, including via email, blogs, web page entries on social or digital media sites such as Facebook and Twitter, and other similar online postings that are in the public sphere and are not private. These postings can subject a University community member to allegations of conduct violations. The University does not regularly search for this kind of information but may take action if and when such information is brought to the attention of University officials.

### III. Notice of Non-Discrimination and Relevant Laws

#### A. Notice of Non-Discrimination

The University is committed to establishing and maintaining a safe and nondiscriminatory educational environment in which all individuals are treated with respect and dignity. The University does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs, or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972 (“Title IX”), a federal law that provides that: **No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.**

In addition, sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964 (“Title VII”), Virginia state law, and other applicable statutes. The University does not permit discrimination or harassment in its programs and activities on the basis of race, color, national origin, ancestry, sex, gender, gender identification, sexual orientation, disability, age, religion, physical and/or mental disability, medical condition, veteran status, marital status, or any other characteristic protected by institutional policy or state, local, or federal law.

This Policy addresses all forms of “Prohibited Conduct” under this Policy. (See VI. Prohibited Conduct.) This Policy also prohibits gender-based harassment that does not involve conduct of a sexual nature, including hazing, stalking, and failure to provide equal opportunity in admissions, employment, or athletics. This Policy is applicable to Prohibited Conduct against University community members of any gender, gender identity, gender expression or sexual orientation by any member of the University community, including students, faculty, staff, administrators, Board members, consultants, vendors, and others engaged in business with the University.

The University, as an educational community, will promptly and equitably respond to reports of Prohibited Conduct in order to eliminate the Prohibited Conduct, prevent its recurrence, and address its effects on any individual or the community.

#### B. Links to Relevant Federal and State Laws

Additional information about Title IX, the Clery Act, the Campus SaVE Act and FERPA, federal and state laws referenced in this Policy, can be found at the following links:

<b>Title IX</b>	<a href="http://www.dol.gov/oasam/regs/statutes/titleix.html">http://www.dol.gov/oasam/regs/statutes/titleix.html</a> <a href="http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html">http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html</a>
<b>Clery Act</b>	<a href="http://cleryact.info/home.html">http://cleryact.info/home.html</a>
<b>FERPA</b>	<a href="http://www.ed.gov/Policy/gen/guid/fpco/ferpa/index.html">http://www.ed.gov/Policy/gen/guid/fpco/ferpa/index.html</a>
<b>Campus SaVE Act</b>	<a href="http://www.cleryact.info/campus-save-act.html">http://www.cleryact.info/campus-save-act.html</a>
<b>Virginia Law, Title 23.1, Chapter 8, § 23-1-806- Reporting acts of sexual violence</b>	<a href="http://law.lis.virginia.gov/vacode/title23.1/chapter8/section23.1-806/">http://law.lis.virginia.gov/vacode/title23.1/chapter8/section23.1-806/</a>

**Virginia Law, Title 23.1, Chapter 9, § 23.1-900-** Academic transcripts; suspension, permanent dismissal, or withdrawal from institution.

<http://law.lis.virginia.gov/vacode/title23.1/chapter9/section23.1-900/>

#### IV. The Role of the Title IX Coordinator

The Title IX Coordinator is charged with monitoring the University's compliance with Title IX; ensuring appropriate education and training; coordinating the University's investigation, response, and resolution of all reports under this Policy; and ensuring appropriate actions to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator is available to meet with any student, employee, or third party to discuss this Policy or the accompanying procedures. The University has also designated Deputy Title IX Coordinators who may assist the Title IX Coordinator in the discharge of these responsibilities. The Title IX Coordinator and Deputy Title IX Coordinators receive appropriate training to discharge their responsibilities.

The Title IX Coordinator may be reached during regular business hours:

Marymount University Title IX Coordinator  
Angela Nastase, JD I (703) 526-6940  
2807 N. Glebe Road I Lodge, Suite 2005  
TITLEIX@marymount.edu

The Title IX Coordinator is:

- ◆ Knowledgeable and trained in University policies and procedures and relevant state and federal laws;
- ◆ Available to advise any individual, including a Complainant, a Respondent, or a third party, about the courses of action available at the University, both informally and formally, and in the community;
- ◆ Available to provide assistance to any University employee regarding how to respond appropriately to a report of sexual harassment, sexual violence, stalking, or intimate partner violence or retaliation;
- ◆ Responsible for monitoring full compliance with all procedural requirements, record keeping, and timeframes outlined in this Policy; and
- ◆ Responsible for overseeing training, prevention and education efforts, and annual reviews of climate and culture.

The Title IX Coordinator is supported by the Title IX Team. Members of this interdepartmental team include the Title IX Coordinator, Deputy Title IX Coordinators, the Vice President of Student Affairs, and the Director of Campus Safety and Emergency Management. In addition, based on the role of the Complainant and the Respondent, the members of the team could include a representative from the Division of Student Affairs, Human Resources, Athletics, and/or the Division of Academic Affairs. Composition of the Title IX Team will be limited to a small circle of individuals who “need to know” in order to implement procedures under this Policy.

**Reporting Prohibited Conduct on Campus:** It is important to understand that all University employees who are not designated as a confidential resource under this Policy, including faculty members, are **Responsible Employees** and are required to disclose a report of Prohibited Conduct or potential Prohibited Conduct to the Title IX Coordinator. A Responsible Employee shall report all relevant details, whether obtained directly or indirectly, about any occurrence or potential occurrence of Prohibited Conduct, including dates, times, locations, and names of the parties and witnesses.

The Title IX Coordinator is specifically charged with coordinating the initial assessment, initiating the investigation, and responding to allegations of Prohibited Conduct to stop the Prohibited Conduct, address its effects, and prevent its recurrence. The Title IX Coordinator will conduct an initial assessment of the incident or behavior at issue, the Complainant's desired course of action, and the necessity for appropriate interim measures or accommodations to protect the safety of the Complainant or the community.

All University proceedings are conducted in compliance with the requirements of Title IX, the Clery Act, the Campus SaVE Act, FERPA, state and local law, and University Policy. Links to these federal laws are provided in Section III of this Policy.

Inquiries or complaints concerning the application of Title IX may be referred to the University's Title IX Coordinator and/or the United States Department of Education:

<b>Title IX Coordinator</b>	Angela Nastase, JD 2807 N. Glebe Road Suite 2005 703-526-6940 TITLEIX@marymount.edu
<b>United States Department of Education: Office for Civil Rights</b>	800-421-3481 ocr@ed.gov

## V. Privacy and Confidentiality

The University is committed to protecting the privacy of all individuals involved in a report of Prohibited Conduct. In any report of Prohibited Conduct under this Policy, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and imposition of any necessary steps to eliminate the harassment, prevent its recurrence, and address its effects.

The privacy of the parties will be respected and safeguarded at all times. All University employees who are involved in the University's Title IX response receive specific training and guidance about safeguarding private information.

Privacy and confidentiality have distinct meanings under this Policy.

### A. Privacy

Privacy generally means that information related to a report of Prohibited Conduct will only be shared with a limited circle of individuals. The use of this information is limited to those University employees who "need to know" in order to assist in the active review, investigation, or resolution of the report of Prohibited Conduct. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. The University will designate which University employees have a legitimate need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA) and will share information accordingly.

### B. Confidentiality

Confidentiality means that information shared by an individual with designated confidential campus or community professionals cannot be revealed to any other individual without express permission of the individual or meeting specific legal exceptions. Those campus and community professionals include medical providers, mental health providers, ordained clergy, and rape crisis counselors, all have privileged confidentiality that has been recognized by the law. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others or the conduct involves suspected abuse of a minor under the age of 18 years.

University Community members wishing to seek completely confidential assistance may speak with counselors in the Counseling Center, health service providers in the Student Health Center, off-campus rape crisis resources, or members of the clergy/chaplains who will maintain confidentiality.

### C. Release of Information

If a report of Prohibited Conduct discloses a serious and immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the community. The University may also share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions. At no time will the University release the name of the Complainant to the general public without the express consent of the Complainant or as otherwise permitted or required by law.

Under the Virginia Reporting Statute, the University is required to report information about certain allegations of Prohibited Conduct to the law enforcement agencies and the prosecuting authorities who would be responsible, respectively, for investigating and prosecuting such allegations.

Pursuant to the Clery Act, anonymous statistical information must be shared with the University's Campus Safety Office, where required by the Clery Act. Annual Clery reporting to the U.S. Department of Education is required by educational institutions for certain offenses that have been reported at campus locations. The information contained in the University's Clery report tracks the number of Clery reportable offenses occurring at campus locations and does not include the names or any other identifying information about the persons involved in the incident.

Marymount University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly disciplinary probation, and loss of housing, suspension, and expulsion.

All University proceedings are conducted in compliance with the requirements of Title IX, the Clery Act, the Campus SaVE Act, FERPA, state and local law, and University Policy. Links to these federal laws are provided in Section III of this Policy.

No information shall be released from proceedings under this Policy except as required or permitted by law or University Policy.

## VI. Prohibited Conduct

The University prohibits a broad spectrum of behavior, including sexual assault, sexual violence, stalking, intimate partner violence, and retaliation ("Prohibited Conduct"). Sexual assault, interpersonal misconduct, sexual harassment, and sexual violence refer to verbal or physical acts that are *unwelcome* or without *consent*. Intimate partner violence, also referred to as dating violence, domestic violence, and relationship violence, includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. Intimate partner violence can encompass a broad range of behavior, including, but not limited to, physical violence, sexual violence, intimidation, emotional abuse, and economic abuse.

The University will not tolerate Prohibited Conduct of any form. Such violations are subject to any combination of sanctions, including expulsion or suspension for students, or termination for employees. The following conduct is specifically Prohibited Conduct under this Policy:

### A. Sexual Assault

Sexual assault is engaging in sexual intercourse or any of the sexual activities listed below with another person, without that person's effective consent. Sexual assault includes, but is not limited to, rape, sexual battery, anal intercourse, oral copulation, or penetration of a body cavity by a foreign object. *Sexual intercourse* includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.

Sexual assault includes sexual violence, which is defined by Virginia law as "physical sexual acts perpetrated against a person's will or against a person incapable of giving consent."

### B. Non-Consensual Sexual Contact:

Having sexual contact with another individual:

- ◆ Without effective consent; or
- ◆ When that individual is incapacitated.

*Sexual contact* includes any intentional touching of the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner.

### C. Interpersonal Misconduct

For the purposes of this Policy, engaging in dating violence, domestic violence, or stalking is considered interpersonal misconduct. In accordance with reauthorization of the Violence Against Women Act, Dating Violence, Domestic Violence, and Stalking are defined below.

**Dating Violence** is violence committed by a person:

1. Who is, or has been, in a social relationship of a romantic or intimate nature with the victim.
2. The existence of such a relationship shall be determined based on consideration of the following factors:
  - a) The length of the relationship;
  - b) The type of the relationship; and
  - c) The frequency of interaction between the persons involved in the relationship.

**Domestic Violence** is a felony or misdemeanor crime of violence under Virginia law that is committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim, or by any other person against an adult or youth victim who is protected from the person's acts under Virginia law.

For purposes of this Policy, "violence" means physical, sexual, emotional, or psychological actions or threats of actions that influence another individual, including actions or threats that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound another person.

**Stalking** is a form of interpersonal misconduct that means engaging in a course of conduct directed at a specific person(s) that would cause a reasonable person under similar circumstances and with similar identities to the Complainant to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

Course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person.

Stalking occurs when a person engages in a pattern of repeated unwanted attention, harassment, contact, or course of contact toward another person, including following the person without proper authority, under circumstances that demonstrate either of the following:

1. Placing the person in reasonable fear of bodily injury; or
2. Reasonably causing substantial emotional distress to the person.

When these acts occur in the context of intimate partner violence, or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this Policy.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion. Examples of stalking include:

- ◆ Unwelcome and repeated visual or physical proximity to a person;
- ◆ Repeated oral or written threats;
- ◆ Extortion of money or valuables;
- ◆ Unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on on-line bulletin boards;
- ◆ Unwelcome/unsolicited communications about a person, their family, friends, or co-workers;
- ◆ Sending/posting unwelcome and/or unsolicited messages with another username; or
- ◆ Implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

When allegations of stalking are unrelated to sex and/or gender-based harassment or intimate partner violence, cases may be referred to the appropriate office and governed by either the Student Community Conduct Code, the University Faculty Handbook, or the University Employee Handbook.

## **D. Physical Harm and Intimidation**

Physical harm and intimidation means threatening, or causing physical harm, written or verbal abuse, or other conduct that threatens or endangers the health or safety of any person, or implied threats or acts that cause an unreasonable fear of harm in another. When these acts occur in the context of intimate partner violence, or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this Policy.

## **E. Sexual Exploitation**

Sexual exploitation is taking advantage of the sexuality of another person, without consent, or in a manner that extends the bounds of consensual sexual activity, without the knowledge or consent of the other individual for any purpose, and includes sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose. Examples of sexual exploitation include:

- ◆ Observing another individual's nudity or sexual activity, or allowing another to observe consensual sexual activity, without the knowledge and consent of all parties involved;
- ◆ Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- ◆ Prostituting another individual;
- ◆ Exposing one's genitals in non-consensual circumstances;
- ◆ Knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge; and
- ◆ Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

## **F. Sexual Harassment**

Sexual harassment is any unwelcome sexual advance, request for sexual favor, or other unwanted verbal or physical conduct of a sexual nature, when one or more of the following conditions are present:

- ◆ Submission to, or rejection of, such conduct is an explicit or implicit condition of an individual's employment, evaluation of academic work, or any aspect of a University program or activity; or
- ◆ Submission to, or rejection of, such conduct by an individual is used as the basis for decisions affecting the individual; or
- ◆ Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently serious, pervasive, or persistent so as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both an objective (a reasonable person's view) and subjective (the Complainant's view) standard.

A single, isolated incident of sexual harassment alone may create a hostile environment, if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. The determination of whether an environment is "hostile" must be based on all the circumstances. The circumstances could include, but are not limited to:

- ◆ The frequency of the speech or conduct;
- ◆ The nature and severity of the speech or conduct;
- ◆ Whether the conduct was physically threatening;
- ◆ Whether the speech or conduct was humiliating;
- ◆ The effect of the speech or conduct on the Complainant's mental and/or emotional state;
- ◆ Whether the speech or conduct was directed at more than one person;
- ◆ Whether the speech or conduct arose in the context of other discriminatory conduct;

- ◆ Whether the speech or conduct unreasonably interfered with the Complainant's educational opportunities or performance (including study abroad), university-controlled living environment, work opportunities or performance;
- ◆ Whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or
- ◆ Whether the speech or conduct deserves the protections of academic freedom.

**Sexual harassment can take many forms. Sexual harassment:**

- ◆ May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- ◆ Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents;
- ◆ May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context;
- ◆ May be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship;
- ◆ May be committed by or against an individual or may be a result of the actions of an organization or group;
- ◆ May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation;
- ◆ May occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting;
- ◆ May be a one-time event or part of a pattern of behavior;
- ◆ May be committed in the presence of others or when the parties are alone; and
- ◆ May affect the Complainant and/or third parties who witness or observe harassment.

Sexually harassing behaviors differ in type and severity and can range from subtle verbal harassment to unwelcome physical contact. There is a wide range of behaviors that fall within the general definition of sexual harassment and many differing notions about what behaviors are and are not acceptable. Key determinative factors are that the behavior is unwelcome, is gender-based, and is reasonably perceived as offensive and objectionable under both a subjective and objective assessment of the conduct.

**Gender-Based Harassment** includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, submission to rejection.

## **G. Harassment, Bullying, or Cyberbullying**

Harassment, bullying or cyberbullying, are defined as repeated and/or severe aggressive behavior(s) likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally and includes, but are not limited to creating web pages with a negative focus; posting insults or lewd photos on social networking sites; and/or spreading rumors with malicious intent. When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this Policy.

## **H. Retaliation**

The University will not tolerate retaliation in any form against any individual who makes an allegation, files a complaint, serves as a witness, assists a complainant or respondent, or participates in an investigation of a complaint of discrimination or harassment. For purposes of this Policy, retaliation means any conduct that adversely and unjustifiably

affects another's terms and conditions of the educational experience, employment, or quality of life at the University, that is motivated by retribution or an intent to cause harm because of the targeted individual's involvement in the filing of a complaint, serving as a witness, providing assistance to a party to the complaint, or otherwise participating in the investigation of a complaint.

Retaliation includes threatening, intimidating, harassing, coercing or engaging in any other conduct that is likely to discourage a reasonable person from engaging in the activities described in and protected under this Policy. Retaliation is a serious offense that is prohibited by University Policy and federal law and may subject the offender to discipline, under the terms of this Policy, and the University's Student Community Conduct Code, Employee Handbook, and Faculty Handbook. Allegations of retaliation should be directed to the University's Title IX Coordinator.

## I. Complicity

Complicity is any act taken with the purpose of aiding, facilitating, promoting, or encouraging the commission of an act(s) of Prohibited Conduct by another person.

## VII. Understanding Effective Consent: Force, Coercion, Incapacitation, and Alcohol or Drugs

### A. Effective Consent

In accordance with Catholic teaching, the University does not condone engaging in sexual activity outside the confines of marriage. However, the University understands that students will make their own decisions with regard to sexual activity. Individuals who choose to engage in sexual activity of any type must first obtain *effective consent*. Effective consent is the informed, voluntary, and willing participation or cooperation in action, behavior or attitude that is commonly understood to be consistent with the exercise of free will.

Effective consent requires participants who 1) are fully conscious, equally free and legally competent to act; 2) have clearly communicated their willingness, cooperation or permission to participate in the specific sexual activity engaged in; and 3) are positive and clear about their desires and are able to cease ongoing consensual activity at any time. A person who wants to engage in a specific sexual activity is responsible for obtaining effective consent for that activity.

A lack of resistance, or silence and/or passivity, does not constitute consent. A refusal to consent, or withdrawal of consent, does not have to be verbal; it can be expressed with clear gestures, body language or attitude. A prior sexual history between participants by itself does not constitute consent to future sexual activity.

#### **Additional Guidance about Effective Consent:**

- ◆ Consent to one form of sexual activity does not constitute consent to engage in other forms of sexual activity.
- ◆ Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
- ◆ When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive. Under this Policy, “no” always means “no” and “yes” may not always mean “yes.”
- ◆ If at any time during the sexual activity, any confusion or ambiguity arises as to the willingness of the other individual to proceed, both parties should stop and clarify, verbally, the other's willingness to continue before continuing such activity.
- ◆ Either party may withdraw consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

- ◆ Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity.
- ◆ Consent is not effective if it results from the use or threat of physical force, intimidation, coercion, or any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact. Examples of physical force include hitting, punching, slapping, choking, or displaying and/or using a weapon. Examples of threats include using words or actions that would compel a reasonable person to engage in unwanted sex, including but not limited to threats of physical harm, threats to disclose private information that harms a person's reputation, or threats to cause a personal academic or economic harm.
- ◆ Coercion negates effective consent. Coercion is the use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and/or blackmail. See Coercion (Section VII-C) below for further information.
- ◆ Individuals who consent to sexual activity must be able to fully understand what they are doing. An individual who is physically and/or incapacitated from alcohol or drug consumption (voluntarily or involuntarily) or is asleep, unconscious, unaware, or otherwise physically helpless is considered unable to give consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. See Incapacitation (Section VII-D) below for further discussion.
- ◆ In the Commonwealth of Virginia, the age of majority is 18. Under state law, consent cannot be given for any individual under the age of 18 to participate in sexual activity with an individual over the age of 18. In addition, consent can never be given by minors under the age of 13.

## **B. Force**

Force is the use or threat of physical force or intimidation, coercion, or any other factor to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

## **C. Coercion**

Coercion is the use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. Coercion may be emotional, intellectual, psychological, or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to disclose another individual's private sexual information related to sexual orientation, gender identity, or gender expression, and threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity violates this Policy in the same way as physically forcing someone into engaging in sexual activity.

## **D. Incapacitation**

An individual who is incapacitated lacks the ability to make informed, rational judgments and decisions and, therefore, cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring.

Where alcohol or drugs are involved, incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol or drugs varies from person to person; however, typically warning signs that a person may be intoxicated or is approaching incapacitation include slurred and/or incomprehensible speech, vomiting, unsteady gait, odor of alcohol, combativeness, or emotional volatility (e.g. unusual or unpredictable calm one second followed by enragement or extreme sadness the next).

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's abilities to:

- ◆ Communicate a choice;
- ◆ Understand relevant information;
- ◆ Reason about choices; and/or
- ◆ Appreciate the consequences of a situation.

In other words, a person may be considered incapacitated and unable to give valid consent, if the person cannot appreciate the *who, what, where, when, why, or how* of a sexual interaction. A person who is incapacitated may not be able to understand one or both of the following questions: “Do you know where you are?” or “Do you know how you got here?”

Evaluating incapacitation also involves an assessment of whether a Respondent knew or should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position. The University will consider two questions when assessing incapacitation: (1) Did the person initiating sexual activity know their partner was incapacitated? And, if not, (2) Would a sober, reasonable person in the same situation have known that their partner was incapacitated? If the answer to either question is “yes,” effective consent is lacking.

Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Engaging in sexual activity with an individual that Respondent reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is a violation of this Policy.

## **E. Alcohol or Drugs**

In general, the University considers sexual contact while under the influence of alcohol or drugs to be risky behavior. Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

The perspective of a reasonable person will be the objective basis for determining whether a Respondent should have been aware of the extent and amount of the ingestion of alcohol or drugs by the Complainant, or of the extent to which the use of alcohol or drugs impacted a Complainant's ability to give consent. For example, an individual who is in a blackout state may appear to act normally and be giving consent, but may not actually have conscious awareness, the ability to consent or later recall of the events in question. In determining whether consent has been given, the University will consider both the extent to which a Complainant affirmatively gives words or actions indicating a willingness to engage in sexual activity and whether the Respondent was aware – or reasonably should have known – of the Complainant's level of alcohol consumption and/or level of impairment.

Being intoxicated or impaired by alcohol or drugs is never an excuse for Prohibited Conduct and does not diminish one's responsibility to obtain informed and effective consent.

## **VIII. Prohibited Relationships by Persons in Authority**

### **A. Consensual Relationships**

The University is committed to a climate free from sexual and other forms of unlawful harassment in that it is both unwise and inappropriate for University managerial personnel to have romantic relationships with any subordinate University employee.

Such relationships have the potential for adverse consequences, including the filing of sexual harassment

complaints. Given the unbalance of power in a relationship where one person awards grades or makes promotion or salary decisions, the consensual nature of the relationship is inherently suspect. It is incumbent upon those with authority not to abuse or appear to abuse the power with which they have been entrusted. Should a charge of sexual harassment be brought by a person in a subordinate position, “consent to the relationship” shall not be deemed a sufficient defense or justification for conduct which otherwise would be deemed sexual harassment under the Policy of the University.

A romantic relationship in the workplace may raise perceptions of bias and favoritism; deterioration of the relationship may give rise to perceptions of harassment or retaliation. Prudence and the best interests of the participants in the relationship and others working with them dictate that if a romantic relationship develops between a University manager and a subordinate University employee, the managerial relationship cannot be permitted to continue.

## **B. Faculty and Staff Dating Students**

The University strives to encourage academic excellence, professionalism, respect, integrity, diversity, faith and service. The University seeks to create an environment that is free of exploitation and unlawful harassment or discrimination that undermines the integrity of the institution.

The University prohibits consensual relationships of a dating, intimate and/or sexual nature between faculty or staff and any student with whom the faculty or staff member is in a direct/power relationship. Furthermore, the University strongly discourages these consensual relationships even when no power relationship exists. This Policy is rooted in the recognition that faculty– or staff–student relationships may be inherently unequal and contain an element of superiority or power. Consensual relationships between faculty or staff and students may give rise to the perception by others that there is favoritism or bias in educational decisions affecting students. These perceptions undermine the spirit of trust and mutual respect that is important to the University environment.

Reporting of possible violations of the Policy may be made to Campus Safety, the Title IX Office, or through Ethics Point.

In the event of such a relationship, it is the responsibility of the person in a position of authority to notify his/her own supervisor so that a resolution consistent with this Policy may be reached. Failure to comply with this requirement is a violation of this Policy, and the person in authority could be subject to disciplinary action, up to and including dismissal from employment by the University.

Any individual may file a complaint alleging Prohibited Conduct, including an aggrieved party outside the relationship affected by the perceived harassment or discrimination. Retaliation against persons who report concerns about prohibited relationships by persons in authority is prohibited and constitutes a violation of this Policy.

For purposes of this Policy, the term “faculty” incorporates the definitions set forth in the Marymount University Faculty Handbook, and includes the following persons: Full-time faculty members; Part-time faculty members; Tenured faculty members; Non-tenured faculty members; Continuing Instructors; Postdoctoral Teaching Fellows; Visiting Faculty Members; Lecturers; Adjuncts; Artists-In-Residence; Externally Funded Faculty Members; Emeriti; Faculty Appointments in Library and Learning Sciences; Program Directors and Coordinators; Department Chairs; Associate Deans; Deans; and Academic Administrators.

## **IX. Resources and Reporting Options**

A first step for any Complainant or third party witness may be choosing how to proceed following an incident of Prohibited Conduct. The University provides two distinct institutional resources:

**Confidential Resources**, which do not involve notifying the University of the incident of Prohibited Conduct, without express permission of the individual or meeting specific legal exceptions (See Confidential Resources, p. ii); and

**Reporting Options**, which notify the University of the incident of Prohibited Conduct and begin the Title IX assessment and ultimate resolution of the report through remedies or investigation and imposition of any appropriate sanctions (See Reporting Prohibited Conduct at Marymount University, p. iii).

It is also important to note that emergency medical and campus safety/law enforcement assistance are available both on- and off-campus, and all individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident which poses a threat to safety or physical well-being.

**Campus and Community Resources**, The University is committed to treating all members of the community with dignity, care, and respect. Any individual affected by Prohibited Conduct, whether as a Complainant, a Respondent, or a Third Party, will have equal access to support consistent with their needs and available University resources.

The University recognizes that deciding whether to make a report and choosing how to proceed can be difficult decisions. The University encourages any individual who has questions or concerns to seek the support of campus and community resources. These professionals can provide information about available resources and procedural options and assistance to either party in the event that a report and/or resolution under this Policy are pursued. Individuals are encouraged to use all available resources, regardless of when or where the incident occurred.

## **A. Emergency Support Services**

The University encourages all individuals to seek assistance from a medical provider and/or law enforcement as soon as possible following an incident which poses a threat to safety or physical well-being. This is the best option to provide physical safety, emotional support, and medical care to the Complainant. It is also the best option to ensure preservation of evidence, which may only exist for a short period of time, and to begin a timely investigative and remedial response. The University Office of Campus Safety will escort any Marymount community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about the University's resources and complaint processes.

A forensic sexual assault examination should be obtained promptly from a hospital or sexual response center. The sexual assault examination has two goals: first, to diagnose and treat the full extent of any injury or physical effect (sexually transmitted infection or possibility of pregnancy) and, second, to properly collect and preserve evidence. The exam may include testing and prophylactic treatment for HIV/AIDS, STIs, and pregnancy, a vaginal/anal examination, collecting fingernail scrapings and/or clippings, examining for injuries, and a blood draw. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any course of action. The decision to seek medical attention and gather any evidence will preserve the full range of options to seek resolution through the University's complaint processes or criminal action.

Individuals who believe they may have been drugged should consider seeking drug testing immediately to collect and preserve evidence, as most drugs exit an individual's system quickly.

An individual can also contact a Student Health Center nurse or nurse practitioner (during the academic year, during open hours). The Student Health Center can provide follow-up medical services, and provide a forum to discuss any health care concerns related to the incident in a confidential medical setting. The Student Health Center, however, is not equipped to conduct forensic sexual assault examinations.

<b>Medical Treatment</b>	
<b>Inova Fairfax Hospital</b> 3300 Gallows Road Falls Church, Virginia 22042	703-776-6666 <ul style="list-style-type: none"> <li>◆ Provides medical treatment and Sexual Assault Nurse Examiner (Closest SANE hospital)</li> </ul>
<b>Inova Alexandria Hospital</b> 4320 Seminary Road Alexandria, Virginia 22304	703-504-3000 <ul style="list-style-type: none"> <li>◆ Provides medical treatment and Sexual Assault Forensic Exams</li> </ul>
<b>Marymount University Student Health Center</b>	703-284-1610 <ul style="list-style-type: none"> <li>◆ Provides medical treatment.</li> <li>◆ Hours: 8:30 am – 5:00 pm, M-F Summer: 10:00 am – 4:00 pm, M-F</li> </ul>

Assistance is available from the University Office of Campus Safety and local law enforcement 24 hours a day, year-round, by calling the Office of Campus Safety and/or the Arlington Police Department. Any individual can request that a member of the Office of Campus Safety and/or Arlington Police Department respond and take a report.

<b>Emergency Response</b>	
<b>Emergency Law Enforcement Response</b>	911 (from anywhere) to reach <ul style="list-style-type: none"> <li>◆ Alexandria Police Department</li> <li>◆ D.C. Metro</li> <li>◆ Fairfax County Police</li> </ul>
<b>Marymount University Office of Campus Safety</b> Main Guardhouse - Lee Highway Entrance	703-284-1600 <ul style="list-style-type: none"> <li>◆ Hours: 24/7</li> </ul>
<b>Marymount University Ballston Center and 4040 Center - Campus Safety Authorities</b>	703-284-5900 <ul style="list-style-type: none"> <li>◆ Hours: 7:00 am – 11:00 pm, M-F Saturday: 8:00 am – 6:00 pm</li> </ul>
<b>Marymount University Reston Center – Campus Safety Authorities</b>	703-284-5770 <ul style="list-style-type: none"> <li>◆ Hours: 9:00 am – 5:00 pm, M-F</li> </ul>

## **B. Confidential Resources and Support**

For individuals who are seeking confidential consultation, there are several resources available to provide confidential support, both on campus and in the local community. The trained professionals designated below can provide counseling, information, and support under legally protected confidentiality (Confidentiality is defined in Policy Section V). Because these relationships involve privileged conversations, confidential resources will not share information about a patient/client (including whether or not that individual has received services) with the Title IX Coordinator or any other employee of the University without the individual's express written permission or for meeting specific expectations. They may, however, submit non-identifying information about the incident for purposes of making a statistical report under the Clery Act.

<b>On-Campus Confidential Resources</b>	
<b>Marymount University Student Counseling Center</b> Berg Hall, BERG 1014 counselingcenter@marymount.edu	703-526-6861 <ul style="list-style-type: none"> <li>◆ The Counselor-on-Call may be reached 24/7 through Campus Safety</li> <li>◆ Hours: 9:00 am - 5:00 pm, M-F</li> <li>◆ Summer: 10:00 am – 5:00 pm, M-F</li> </ul>

<b>Marymount University Student Health Center</b> Berg Hall, BERG 1014	703-284-1610 <ul style="list-style-type: none"> <li>◆ Provides medical treatment</li> <li>◆ Hours: 8:30 am – 5:00 pm, M-F Summer Semester: 10:00 am – 4:00 pm, M-F</li> <li>◆ After-hours contact Campus Safety</li> </ul>
<b>Marymount University Campus Ministry</b> Rev. Tom Yehl, University Chaplain The Lodge, Room 1003	Direct: 703-284-1607 <ul style="list-style-type: none"> <li>◆ Hours: 7:30 am – 5:00 pm, M-F</li> <li>After-Hours Emergency: 571-581-8126</li> </ul>

### Off-Campus Confidential Resources

<b>Doorways for Women and Families 24-hour Sexual Violence Hotline</b>	703-237-0881 <a href="http://www.doorways.va.org">www.doorways.va.org</a>
<b>Arlington County Rape/Domestic Violence</b>	Hotline: 703-228-4848
<b>National Domestic Violence Hotline (NDV)</b>	Hotline: 800-799-7233 (SAFE)
<b>Fairfax County Domestic and Sexual Violence Hotline</b>	Hotline: 703-360-7273 (24/7)
<b>Virginia State Domestic &amp; Sexual Violence Hotline</b>	Hotline: 800-838-8238 (24/7)
<b>Marymount University Employee Assistance Program for Faculty and Staff</b>	888-267-8126 (24/7) connection to a professional counselor or lifeworks on-line assistance: <a href="http://www.lifeworks.com">www.lifeworks.com</a>

## X. Reporting Prohibited Conduct

The University encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of Prohibited Conduct, whether or not the individual plans to pursue criminal action. This is the best option to ensure preservation of evidence and to begin a timely response by law enforcement and/or the University.

A decision not to seek such assistance, however, does not impact an individual's ability to report an incident of Prohibited Conduct to the Title IX Coordinator. The University has a strong interest in supporting victims and survivors of Prohibited Conduct and encourages all individuals or third party witnesses to report any incident of Prohibited Conduct to the University, and, if it involves potential criminal conduct, to law enforcement.

Making a report of Prohibited Conduct under this Policy means telling the Title IX Coordinator or any other University staff or faculty member who are considered responsible employees and are required to share the information with the Title IX Coordinator. Reporting can be done in person, by telephone, in writing, or by email. At the time a report is made, a Complainant does not have to decide whether or not to request any particular course of action. Nor does a Complainant need to know how to label what happened. Choosing to make a report of Prohibited Conduct, and deciding how to proceed after making the report, can be a process that unfolds over time. The University provides support that can assist each individual in making these important decisions, and to the extent legally possible, will respect an individual's autonomy in deciding how to proceed balancing the individual's interest with its obligation to provide a safe and non-discriminatory environment for all members of the University community.

All University community members are expected to provide truthful information in any report or proceeding under this Policy. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions under the University's Student Community Conduct Code, and disciplinary action under the appropriate Employee Handbook or Faculty Handbook disciplinary Policy. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

Any individual who reports Prohibited Conduct can be assured that all reports will be investigated and resolved in a fair and impartial manner. All individuals involved can expect to be treated with dignity and respect. In every report of Prohibited

Conduct under this Policy, the Title IX Coordinator will make an immediate assessment of any risk of harm to the University community and will take steps necessary to address those risks. These steps will include appropriate interim measures to provide for the safety of the individual and the University community.

## A. Reporting to Law Enforcement

The University encourages Complainants to pursue criminal action for incidents of Prohibited Conduct that may also be crimes under state criminal statutes. The University will assist a Complainant, at the Complainant's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a Complainant pursues the criminal process.

The University's Policy, definitions, and burden of proof may differ from Virginia criminal law. A Complainant may seek resolution through the University's complaint process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's determination whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, are determinative of whether Prohibited Conduct has occurred under this Policy. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

<b>Arlington County Police Department</b>	703-558-2222
<b>Fairfax County Police Department</b>	703-691-2131
<b>Virginia State Police</b>	703-803-0026

## B. Campus Reporting Options

The University is committed to providing a variety of welcoming and accessible means so that all instances of Prohibited Conduct will be reported. All University community members are *encouraged* to report all incidents of Prohibited Conduct directly to the Title IX Coordinator.

The University recognizes, however, that a student or employee may choose to report to any employee of the University. For example, a student may choose to confide in an associate dean, a resident assistant, a faculty member, a director or a coach. Similarly, an employee may choose to confide in a supervisor or colleague. All University employees (except in Counseling and Health Services), including faculty members, are responsible employees and are *required* to disclose such information with the Title IX Coordinator. The Title IX Coordinator is specifically charged with coordinating the initial assessment, initiating the investigation, and responding to allegations of Prohibited Conduct to stop the Prohibited Conduct, address its effects, and prevent its recurrence.

Responsible Employees who are required to disclose information of Prohibited Conduct to the Title IX Coordinator include: faculty, staff, administrators, and those student employees/volunteers who have responsibility for the welfare of other students. Student employees/volunteers who are required to share reports of Prohibited Conduct with the Title IX Coordinator include: Resident Assistants, Graduate Assistants and volunteer interns from other institutions or organizations. These individuals are required to share with the Title IX Coordinator all information of Prohibited Conduct which they receive or become aware, including the identities of the parties, if known.

Responsible Employees including faculty members are not prohibited by FERPA from disclosing instances of Prohibited Conduct. FERPA has been construed to be subordinate to Title IX in the event of a conflict.

To enable the University to respond to all reports in a prompt and equitable manner, the University encourages all individuals to directly report any incident of Prohibited Conduct to the Title IX Coordinator, and/or Campus Safety (24-hour availability).

<b>Reporting Options</b>	
<b>Title IX Coordinator</b> 2807 N. Glebe Road The Lodge, Room 2005	<b>Angela Nastase, JD</b> <b>Title IX Coordinator</b> 703-526-6940 TITLEIX@marymount.edu
<b>Marymount University Office of Campus Safety &amp; Emergency Management</b> Main Guardhouse – Lee Highway Entrance	703-284-1600 ◆ Hours: 24/7 service campus.safety@marymount.edu
<b>Deputy Title IX Coordinators</b>	<b>Aline Orfali</b> , International Student Services Gerard Hall, Room 1030 703-284-5797 aline.orfali@marymount.edu
	<b>Gene Deane</b> , Information Technology Services Reinsch Library, Room G15 703-526-6907 gene.deane@marymount.edu
	<b>Bridget Murphy</b> , Arts & Sciences Gailhac, Room G107 703-284-6479 bridget.murphy@marymount.edu
	<b>Sarah Gustin</b> , Athletics Rose Bente Lee Center, Room 412 703-284-3334 sgustin@marymount.edu
	<b>Tina Sheppard</b> , Student Affairs 703-284-1609 Berg Hall, Room 1010 sheppard@marymount.edu

### C. Anonymous Reporting

Any individual may make an anonymous report concerning an act of Prohibited Conduct. A report can be made without disclosing one's own name, identifying the Respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may impact the University's ability to respond or take further action.

Anonymous reports of Prohibited Conduct can be made through Ethics Point, an online reporting service that allows direct interaction with the Title IX Coordinator without providing identifying information. Ethics Point may also be reached by calling (888) 355-9973. Ethics Point can be accessed online at:

<https://secure.ethicspoint.com/domain/media/en/gui/20363/index.html>.

Anonymous reports of Prohibited Conduct can also be made by calling the Tip Line Service voice mail system at (703) 247-8345 or Make an Anonymous Report Online at: <https://www.marymount.edu/Student-Life/Health-Wellness/Campus-Safety/Security-on-Campus/Anonymous-Tip-Line>. (Information received via the anonymous tip lines are not monitored twenty-four hours a day.)

As with all other reports, all anonymous reports of Prohibited Conduct will go to Office of Campus Safety and the Title IX Coordinator for review and appropriate response and action. Where there is sufficient information, the University will ensure that anonymous reports of Prohibited Conduct are reviewed and included for compliance with the Clery Act.

## D. Reporting Considerations

### 1) Timeliness of Report

Complainants and third party witnesses are encouraged to report Prohibited Conduct as soon as possible in order to maximize the University's ability to respond promptly and effectively. However, there is no time limit on reporting violations of this Policy. If the Respondent is no longer a student or employee, the University may not be able to take judicial action against the Respondent, but in those instances will still seek to meet its Title IX obligation by providing support for a Complainant and taking steps to end the harassment, prevent its recurrence, and address its effects.

### 2) Location of Incident

An incident of Prohibited Conduct does not have to occur on campus to be reported to the University. Off-campus conduct that affects a substantial University interest may be covered under this Policy.

### 3) Amnesty for Personal Use of Alcohol or Drugs

The University seeks to remove any barriers to reporting an act of Prohibited Conduct. The University will generally offer any student, whether the Complainant or a witness or third party, who reports Prohibited Conduct, limited immunity from being charged for Policy violations related to the personal ingestion of alcohol or drugs, provided that any such violations did not, and do not, place the health and safety of any person at risk. The University may choose, however, to pursue educational or therapeutic remedies for those individuals.

### 4) Statement Against Retaliation

Retaliation is a violation of University Policy and is Prohibited Conduct. The University recognizes that retaliation can take many forms, may be committed by or against an individual or a group, and that a Respondent or third party may also be the subject of retaliation by another individual, including the Complainant.

An individual reporting Prohibited Conduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is not later substantiated. Retaliation for good faith reports of Prohibited Conduct is a violation of University Policy and will result in disciplinary action.

### 5) Students, Faculty, and Staff with Disabilities

The University is committed to providing reasonable accommodations for students with documented disabilities. In accordance with University Policy, students with disabilities who need reasonable accommodations or modifications to address a suspected violation of the University's Sexual and Interpersonal Misconduct Policy and Resources are encouraged to meet with the Director of Student Access Services ("SAS") [<https://www.marymount.edu/Academics/Services-Resources/Student-Access-Services>] as early in the process as possible to identify and plan specific accommodations. Employees with disabilities who need reasonable accommodations or modifications are encouraged to contact Marymount University's Human Resources as early in the process as possible to identify and plan specific accommodations. Students and employees typically will be asked to provide medical documentation. The Director of SAS or Human Resources will inform the Title IX Coordinator and any other University administrators who have a need to know of appropriate accommodations.

### 6) False Reporting

The University takes the validity of reported information very seriously. A charge of Prohibited Conduct may have severe consequences.

A Complainant who makes a report of Prohibited Conduct that is later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action and may also violate state criminal statutes and civil defamation laws. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation.

Similarly, a Respondent or witness who is later proven to have intentionally given false information during the course of an investigation or judicial action may be subject to disciplinary action.

## XI. Interim Measures

### A. Overview

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will impose reasonable and appropriate interim measures designed to eliminate the reported condition and protect the safety and well-being of the Complainant, the Respondent, and the University community, and to promote an accessible educational environment for all parties. The Title IX Coordinator will maintain consistent contact with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed. Interim measures may be imposed regardless of whether formal disciplinary action is sought by the Complainant or the University, in order to ensure the preservation of the Complainant's educational experience and the overall University environment.

A Complainant or Respondent may request separation or other protection, or the Title IX Coordinator may choose to impose interim measures at the Title IX Coordinator's discretion to ensure the safety of all parties, the broader University community, and/or the integrity of the investigative and/or resolution process. Appropriate interim measures may be available regardless of whether or not the Complainant decides to report the alleged criminal conduct to law enforcement.

The University will maintain the privacy of any interim measure provided under this Policy to the extent practicable and will promptly address any violation of an interim measure. The Title IX Coordinator has the discretion to impose and/or modify any interim measure based on all available information and is available to meet with a Complainant and Respondent to address any concerns or modifications related to an interim measure.

### B. Range of Interim Measures

Potential interim measures, which may be applied to the Complainant and/or the Respondent, to the extent reasonably available and warranted by the circumstances, include:

- ◆ Access to counseling services and assistance in setting up initial appointment, both on- and off-campus;
- ◆ Imposition of an on-campus "no-contact order";
- ◆ Rescheduling of exams and assignments;
- ◆ Providing alternative course completion options;
- ◆ Change in class schedule, including the ability to transfer course sections or withdrawal from a course without penalty;
- ◆ Change in work schedule or job assignment;
- ◆ Change in student's University-sponsored or controlled housing;
- ◆ Assistance from University support staff in completing housing relocation;
- ◆ Limit, situationally, or on an as-needed basis, of an individual's or organization's access to certain University facilities or activities pending resolution of the matter;
- ◆ Voluntary leave of absence;
- ◆ Providing an escort to ensure safe movement between classes and activities;
- ◆ Providing medical services;
- ◆ Providing academic support services, such as tutoring;
- ◆ University-imposed administrative leave or separation;
- ◆ Interim suspension; and
- ◆ Any other remedy which can be tailored to the involved individuals to achieve the goals of this Policy.

### **C. University Imposed Interim Student Suspension**

If the Title IX Coordinator (or designee) decides at any point that the health and safety of a student or of the University community is at stake, an interim suspension may be imposed on a student who is suspected of violating this Policy. In addition, interim suspensions may be used to preserve University property; pursue an investigation and/or hearing; prevent disruption of, or interference with, the normal operations of the University. An interim suspension typically will be used for short periods of time pending resolution of a report of Prohibited Conduct under this Policy and assumes no determination of responsibility. Imposition of an interim suspension does not affect the presumption that Respondent is or is not responsible unless or until Investigators conclude that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Policy.

During an interim suspension, a student may be denied access to University housing and/or University campuses and facilities. As determined appropriate by Title IX Coordinator (or designee), this restriction includes classes and/or all other University activities or privileges for which the student might otherwise be eligible.

At the discretion of the Title IX Coordinator (or designee), and with the approval of, and in collaboration with, the appropriate Dean(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the Respondent.

### **D. University Imposed Interim Employee Leave**

If the Title IX Coordinator (or designee) decides at any point that the health and safety of a student or of the University community is at stake, the University may impose leave for any employee, to be enacted by the Executive Director of Human Resources (for staff), and/or the Provost (for faculty) and in collaboration with the appropriate department head. Such leave will be structured at the University's discretion.

### **E. Notation on Student's Academic Transcript**

Virginia Code § 23.1-900 requires that a student who has been suspended or is permanently dismissed after a resolution on the merits under this Policy, or withdraws from the University while under investigation for an offense involving sexual violence will have a prominent notation placed on his/her academic transcript. "Sexual violence" is defined by statute as "physical sexual acts perpetrated against a person's will or against a person incapable of giving consent."

The Title IX Coordinator will notify the student that the suspension, dismissal, or withdrawal will be documented on his or her academic transcript. The student's academic transcript suspension notation will be removed, if he/she has completed the terms of a suspension and the University has determined the individual to be in good standing, in accordance with University conduct standards.

## **XII. Title IX Review, Assessment, and Resolution of Prohibited Conduct**

Although a report may come in through many sources, the University is committed to ensuring that all reports of Prohibited Conduct are referred to the Title IX Coordinator, who will ensure consistent application of the Policy to all individuals and allow the University to respond promptly and equitably to eliminate the Prohibited Conduct, prevent its recurrence, and eliminate its effects.

The Title IX Coordinator is supported by the Title IX Team. Members of the Title IX Team include the Title IX Coordinator, Deputy Title IX Coordinators, Vice President of Student Affairs, the Dean of Student Affairs/Student Life, and the Director of Campus Safety and Emergency Management. In addition, depending on the role of the Complainant and the Respondent, the members of the Title IX Team could include a representative from the Office of Student Affairs, Human Resources, Athletics, and/or Provost's Office. Composition of the Title IX Team will be limited to a small circle of individuals who "need to know" in order to implement procedures under this Policy.

## A. Overview of Procedural Options

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator will conduct an initial Title IX assessment. The goal of the initial assessment is to provide an integrated and coordinated response to reports of Prohibited Conduct. The initial assessment will consider the nature of the report, the safety of the individual and of the University community, the Complainant's expressed preference for resolution, and the necessity for any interim remedies or accommodations to protect the safety of the Complainant or the University community.

Following the initial assessment of the Prohibited Conduct, the Title IX Coordinator may: 1) seek a remedies-based resolution that does not involve disciplinary action against a Respondent (Section XII-D); or, 2) seek judicial resolution by initiating an investigation to determine if disciplinary action is warranted (Section XIII). The goal of the investigation is to gather all relevant facts and determine if there is sufficient information to refer the report for disciplinary action.

Both resolution processes are guided by the same principles of fairness and respect for all parties. All individuals who violate these standards will be held accountable for their behavior through a process that protects the rights of both the Complainant and the Respondent. Resources are available for students and employees, whether as Complainants or Respondents, to provide support and guidance throughout the investigation and resolution of the complaint.

## B. Title IX Assessment

The Title IX Coordinator will conduct an initial Title IX assessment of the Prohibited Conduct. In the course of this initial assessment, the Title IX Coordinator will consider the interest of the Complainant and the Complainant's expressed preference for the manner of resolution. Where possible, and as warranted by an assessment of the facts and circumstances, the University will seek action consistent with the Complainant's expressed preference.

As part of the initial assessment of Prohibited Conduct, the University will:

- ◆ Assess the nature and circumstances of the allegation;
- ◆ Address immediate physical safety and emotional well-being;
- ◆ Notify the Complainant of the right to contact law enforcement and seek medical treatment;
- ◆ Notify the Complainant of the importance of preservation of evidence;
- ◆ Ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is a minor (under 18), contact the appropriate child protective service agency; and
- ◆ Assess the reported conduct for the need for a timely warning under the Clery Act;
- ◆ Provide the Complainant with information about on- and off-campus resources;
- ◆ Notify the Complainant of the range of appropriate interim measures and remedies;
- ◆ Provide the Complainant with an explanation of the procedural options, including remedies-based resolution and judicial resolution;
- ◆ Assess for pattern evidence or other similar conduct;
- ◆ Discuss the Complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- ◆ Explain the University's Policy prohibiting retaliation.

Under the Virginia Reporting Statute, the University is required to report information about certain allegations of Prohibited Conduct to the law enforcement agencies and the prosecuting authorities who would be responsible, respectively, for investigating and prosecuting such allegations.

The initial assessment will proceed to the point where a reasonable evaluation of the safety of the individual and of the campus community can be made, and the University has sufficient information to determine the best course of action.

At the conclusion of the initial assessment, the Title IX Coordinator will determine the appropriate manner of resolution, which may include remedies-based actions or the initiation of an investigation to determine whether judicial action is warranted. The Title IX Coordinator has the sole discretion to determine which method of resolution is appropriate. Any individual wishing to explore alternative dispute resolution methods is encouraged to discuss these options with the Title IX Coordinator.

All University proceedings are conducted in compliance with the requirements of Title IX, the Clery Act, the Campus SaVE Act, FERPA, state and local law, and University Policy. Links to these laws are provided in Section III of this Policy.

The Title IX Coordinator's determination as to how to proceed will be communicated to the Complainant in writing. Depending on the circumstances and requested resolution, the Respondent may or may not be notified of the report or resolution. However, the Respondent will be notified if the University decides to seek action that would impact the Respondent, such as protective measures that restrict the Respondent's movement on campus, the initiation of an investigation, or the decision to involve the Respondent in remedies-based resolution.

The Title IX Coordinator will maintain records of all reports of Prohibited Conduct referred for remedies-based resolution, which will typically be completed within forty-five (45) business days of the initial report.

### **C. Complainant Agency and Autonomy *Not* to Proceed with a Report of Prohibited Conduct**

The University will seek action consistent with the Complainant's expressed preference, where possible. If a Complainant makes a report of Prohibited Conduct but requests that a name or other identifiable information not be shared with the Respondent, or that no formal action be taken, the Title IX Coordinator will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all University community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a Respondent.

In the event that a Complainant does not wish to proceed with an investigation or judicial resolution of the Prohibited Conduct, the Title IX Coordinator will determine, based on the available information, including any investigative report, whether the investigation or judicial resolution proceedings should nonetheless go forward.

In making this determination, the Title IX Coordinator will consider, among other factors:

- ◆ Whether the Complainant has requested confidentiality;
- ◆ Whether the Complainant wants to participate in an investigation or judicial hearing;
- ◆ The severity and impact of the conduct;
- ◆ The respective ages of the parties;
- ◆ Whether the Complainant is a minor under the age of 18;
- ◆ Whether the Respondent has admitted to the conduct;
- ◆ Whether the Respondent has a pattern of similar conduct;
- ◆ The existence of independently verifiable evidence; and
- ◆ The extent of prior remedial methods taken with the Respondent.

The University will take all reasonable steps to investigate and respond to a report of Prohibited Conduct consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Complainant. The Title IX Coordinator will assess any potential barriers to proceeding, including retaliation, and will inform the Complainant that Title IX prohibits retaliation and that the University will take strong responsive action to protect the Complainant. Where the University is unable to take action consistent with the request of the Complainant, the Title IX Coordinator (or designee) will communicate with the Complainant about the University's chosen course of action, which may include a decision to pursue action against a Respondent on its own behalf. Alternatively, the course of action may also include steps to limit the effects of the alleged Prohibited Conduct and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant.

### **D. Remedies-Based Resolution**

The remedies-based resolution process is a non-judicial approach designed to eliminate Prohibited Conduct, without taking disciplinary action against a Respondent. Where the Title IX Coordinator concludes that remedies-based resolution may be appropriate, the University will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant's access to educational, extracurricular and employment

activities at the University and to eliminate Prohibited Conduct. Examples of potential remedies include, but are not limited to, targeted or broad-based educational programming or training, supported direct confrontation of the Respondent, and/or indirect action by the Title IX Coordinator or the University. Depending on form of remedies-based resolution used, it may be possible to maintain anonymity.

The Title IX Coordinator will offer mediation in appropriate cases, but will not compel a Complainant to engage in mediation, to directly confront the Respondent, or to participate in any particular form of remedies-based resolution. Mediation may not be used in cases involving sexual assault. The decision to pursue remedies-based resolution will be made when the University has sufficient information about the nature and scope of the alleged Prohibited Conduct, which may occur at any time in the process. Participation in remedies-based resolution is voluntary, and a Complainant can request to end remedies-based resolution at any time.

The Title IX Coordinator will maintain records of all reports of Prohibited Conduct referred for remedies-based resolution, which will typically be completed within sixty (60) calendar days of the initial report.

### **XIII. Title IX Investigation and Resolution**

When the Title IX Coordinator concludes that disciplinary action may be appropriate, the Title IX Coordinator will initiate an investigation and issue the Notice of Charge(s). The Title IX Coordinator will designate an Investigative Team that has specific training and experience investigating allegations of Prohibited Conduct. The Investigative Team will typically consist of a team of two investigators and may include employees of the University or external investigators engaged to assist the University in its fact gathering. Any investigator chosen to conduct the investigation must be impartial and free of any actual conflict of interest.

The Investigative Team will conduct the investigation in a manner appropriate to the circumstances of the case. The Investigative Team will coordinate the gathering of information from the Complainant, the Respondent, and any other individuals who may have information relevant to the investigation. The Investigative Team will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. In gathering the facts, the Investigative Team may consider prior allegations of, or findings of responsibility for, similar conduct by the Respondent, to the extent such information is relevant to the investigation. The Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident. Witnesses cannot participate solely to speak about an individual's character. Witnesses are expected to cooperate with the Title IX Coordinator and any persons charged with implementing this Policy. If a witness fails to appear for a scheduled appointment, knowingly provides false information, and/or otherwise refuses to cooperate, the witness may be subject to separate disciplinary action under the University's Student Community Conduct Code, Employee Handbook, and/or Faculty Handbook, as applicable.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair. All individuals will be treated with appropriate sensitivity and respect. As described in the Privacy and Confidentiality section, the investigation will be conducted in a manner that is respectful of individual privacy concerns.

#### **A. Presumption of Non-Responsibility and Participation by the Parties**

The investigation is a neutral fact-finding process. The Respondent is presumed to be not responsible; this presumption may be overcome only where the Investigative Team concludes that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Policy. Neither party is required to participate in the investigation under this Policy. The Investigators will not draw any adverse inference from a decision by either of the parties not to participate; however, selective participation in the investigation by either party may be taken into consideration by the Investigative Team.

Throughout the investigation, a Complainant or Respondent may have a Support Advisor (defined in Section XV) present at any meeting related to the investigation.

The University will seek to complete the investigation within sixty (60) calendar days of receiving the complaint, but this time frame may be extended for good cause, which may exist if additional time is necessary to ensure the integrity

and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. At the request of law enforcement, the University may defer its Title IX investigation until after the initial stages of a criminal case. The University will nevertheless communicate with the Parties regarding Title IX rights, procedural options, and the implementation of interim measures to assure the safety and well-being of all affected individuals. The University will promptly resume its Title IX investigation as soon as law enforcement has released the case for review following the initial criminal investigation.

Information gathered during the investigation will be used to evaluate the responsibility of the Respondent, provide for the safety of the Complainant and the University community, and take appropriate measures designed to end the Prohibited Conduct, prevent its recurrence and address its effects.

The Title IX Coordinator will document each report or request for assistance in resolving a report under this Policy and will review and retain copies of all reports generated as a result of an investigation. These records will be kept confidential to the extent permitted by law.

## **1) Review of Investigation Report**

At the conclusion of the investigation of Prohibited Conduct, the Investigative Team will prepare a draft written investigation report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the draft written investigation report, the Investigative Team will review all facts gathered to determine whether the information is relevant and material to a determination of responsibility, given the nature of the allegation. The Investigative Team may redact information that is irrelevant, more prejudicial than probative, or immaterial to a determination of responsibility. The Investigative Team may also redact statements that are personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty. The draft investigation report will not include any findings by the Investigative Team.

Before the draft investigation report is finalized, the Complainant and Respondent will be given the opportunity to review their own statement and, as permitted by FERPA, a summary of other information collected during the investigation, including statements of the other party and any witnesses. A Complainant and Respondent may submit any additional comment or evidence to the Investigative Team within three (3) business days of the opportunity to review the relevant portions of the report.

Upon receipt of any additional information by the Complainant or Respondent, or after the three (3) day comment period has lapsed without comment, the Investigative Team will make a written finding as to whether there is sufficient information alleged to suggest that a Policy violation may have occurred by a preponderance of the evidence and include the written finding in the draft investigation report.

Preponderance of the Evidence means a party has shown that its version of facts is more likely to be true than not true. The Preponderance of the Evidence standard is satisfied if there is a greater than fifty percent chance that the proposition is true.

## **2) Reconsideration of the Determination Not to Proceed to Judicial Action**

If the Investigative Team determines that there is insufficient information alleged to suggest by a preponderance of the evidence that Prohibited Conduct more likely than not has occurred, the Complainant and Respondent will be notified in writing. The Complainant will have the opportunity to seek review by the Title IX Team by submitting a written request for review to the Title IX Coordinator within three (3) business days. The Respondent will be notified and have the opportunity to respond within three (3) business days. Neither party has any further right to respond. Upon the expiration of the review and response periods, the Title IX Team will render a decision, in writing, to both parties, within five (5) business days of receipt for review. The Title IX Team may agree with the finding of the Investigative Team, reverse the finding of the Investigative Team and refer the case for judicial action, or request that the Investigative Team take additional investigative steps. The decision of the Title IX Team is final, and there is no right of appeal for either party.

### 3) Determination to Proceed to Judicial Action

If the Investigative Team determines that there is sufficient information alleged to suggest by a preponderance of the evidence that Prohibited Conduct has occurred, the Title IX Coordinator (or designee) will refer the investigative report for judicial action by the Adjudicator. The Adjudicator will make a finding, by a preponderance of the evidence, as to whether the Respondent is responsible for conduct in violation of this Policy.

University-issued email is the primary means of communication used by the University. The Title IX Coordinator may deliver notice by one or more of the following methods:

- ◆ In person by the Title IX Coordinator or designated University administrator;
- ◆ Mailed to the local or permanent address of the individual, as indicated in official University records; or
- ◆ Emailed to the individual's University-issued email account.

## B. Judicial Resolution

Judicial Resolution is the process by which an Adjudicator designated by the Title IX Coordinator (or designee) determines responsibility and, if warranted, administers sanctions and/or discipline against a Respondent. Because the relationships of students, staff, and faculty to the University differ in nature, the procedures that apply when seeking disciplinary action necessarily differ in some respects. Each of the judicial resolution procedures, however, is guided by the same principles of fundamental fairness and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report under this Policy.

### 1) The Adjudicator

The Title IX Coordinator (or designee) will designate an Adjudicator to review all relevant information in order to make a finding, by a preponderance of the evidence, as to whether the Respondent is responsible for Prohibited Conduct.

The Adjudicator may be an internal member of the University's administration or an external member of the community. Any individual designated by the University must have sufficient training or experience to serve as an Adjudicator. The Adjudicator may also consult with a panel of individuals from the University or surrounding community in considering additional relevant factors.

For a complaint against a student, the Adjudicator is typically the ***Dean for Student Life, Dean for Student Success, Student Affairs Administrator, Academic Associate Dean, or Faculty member.***

For complaints against a staff member, the Adjudicator is typically the ***Executive Director of Human Resources (or their designee).***

For complaints against a faculty member, the Adjudicator is typically a ***senior, tenured member of the faculty***, as assigned by the Provost in consultation with the Title IX Coordinator. Either party may challenge the designation of the Adjudicator.

For a complaint against a student employee who was acting within the scope of their employment at the time of the Prohibited Conduct, the University may designate an Adjudicator related to the student's employment in addition to or in lieu of the Adjudicator typically assigned for complaints against students.

The Adjudicator must be a neutral and impartial decision-maker. The Complainant and the Respondent may submit a written request to the Title IX Coordinator to remove the designated Adjudicator, if there are reasonable articulable grounds to establish bias, conflict of interest or an inability to be fair and impartial. This challenge must be raised within two (2) business days of notice of the designated Adjudicator. A designated Adjudicator will only be removed if the Title IX Coordinator concludes that the Adjudicator's bias precludes an impartial hearing of the report. Additionally, any Adjudicator who has reason to believe she/he cannot make an objective determination must recuse oneself from the process.

### 2) Finding of Responsibility by the Adjudicator

In reaching a determination of responsibility, the Adjudicator will be provided with a copy of the Investigative Team's final Investigation Report, which will include any additional comment or evidence submitted by the parties to the Investigative Team, and may consult with the Complainant, the Respondent, the Title IX Coordinator, and other

affected parties, as may be needed in the Adjudicator's discretion, to ensure a full assessment of the relevant facts. Each party may also submit a written impact statement to the Adjudicator for consideration. The written impact statement may not be longer than 2-typed pages and must be submitted within two (2) business days of the Notice of the Designated Adjudicator. At any time, the Respondent may choose to agree to a finding of responsibility for some or all of the charged conduct. If the Complainant or Respondent is asked to meet with the Adjudicator during the process, they may be accompanied by a Support Advisor (See Section XV).

After consideration of all of the relevant information, the Adjudicator will make a written determination, using the preponderance of the evidence standard, as to whether the Respondent is responsible for conduct in violation of this Policy.

### 3) Imposition of Sanction

If the Respondent is found responsible, the Adjudicator will consider the imposition of sanctions designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and Title IX obligations. Sanctions may also serve to promote safety or deter individuals from similar future behavior. The Adjudicator may also consult with the Title IX Coordinator (or designee). The Adjudicator may impose any sanction deemed appropriate, after a consideration of all relevant information and statements. The imposition of sanctions will take effect immediately and will not be stayed pending the resolution of the appeal.

**Imposition of Sanctions for Students:** Sanctions may include removal from specific courses or activities, probation, removal from University housing, suspension from the University, or expulsion from the University. A full list of the range of sanctions for students is contained in the Student Community Conduct Code. If the sanction imposed is a suspension from the University, refunds of tuition and/or fees will be given according to the schedule in the appropriate University catalog and/or the housing license agreement. For the purposes of a tuition refund, the University will base the refund on the date the suspension is imposed.

**Imposition of Sanctions for Employees:** Sanctions may include any form of responsive action or progressive discipline as set forth in the Employee Handbook, including training, referral to counseling, and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay, or termination.

**Imposition of Sanctions for a Student Employee acting within the scope of his/her employment at the time of the Prohibited Conduct:** Sanctions may include any permissible sanction from the Student Community Conduct Code or the Employee Handbook.

**Imposition of Sanctions for Tenured Faculty or Faculty whose stated period of appointment has not expired:** Sanctions involving a recommendation of termination will implicate [Section 1.9.1 Involuntary Termination of Full-Time Faculty Appointments](#) as set forth in the Faculty Handbook. Under these circumstances, additional procedural steps may occur as set forth in [1.9.1.1 Description of Due Process](#).

### 4) Notice of Outcome

The Adjudicator's written determination will be provided simultaneously to the Complainant and the Respondent. The University neither encourages nor discourages the subsequent disclosure or sharing of the Notice of Outcome by either party.

The Respondent will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements.

The Complainant will be informed of any sanctions that directly relate to the Complainant. The outcome letter will also provide each party with their appeal options.

The Title IX Coordinator may also notify appropriate University officials, including a direct supervisor of employee or faculty Respondent, as necessary to implement the outcome and/or sanctions.

## XIV. Title IX Appeal

Either party may appeal the Notice of Outcome. An appellate review of the Notice of Outcome will be prompt and narrowly tailored to the stated appeal grounds. The Complainant and/or Respondent may appeal only the parts of the Adjudicator's determination of responsibility or sanctions that directly relates to him/her. Dissatisfaction with the outcome of the investigation is not grounds for appeal. The limited grounds for appeal are as follows:

- ◆ A material deviation from the Policy that affected the outcome of the case;
- ◆ To consider new and relevant evidence, that was unavailable, with reasonable diligence and effort, during the original investigation or adjudication, that could reasonably affect the original finding or sanction. A summary of this new evidence and its potential affect must be included; and/or
- ◆ The sanction(s) imposed are substantially disproportionate to the severity of the violation.

The appeal, which may be no longer than 2-typed pages, shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. The appeal must be submitted to the Title IX Coordinator within three (3) business days of the date of the Notice of Outcome.

Upon receipt of an appeal, the Title IX Coordinator will provide the other party notice of the appeal and the opportunity to respond in writing to the appeal. Any response to the appeal must be submitted in writing within three (3) business days from receipt of the appeal and may not be longer than 2-typed pages. In the event that both parties initially appeal the findings, each party will be provided notice and a copy of the other party's appeal.

Upon receipt of an appeal and any response, the Title IX Coordinator will notify the designated Appellate Authority. For an appeal involving a student Respondent, the Appellate Authority is typically the Provost and Vice President for Academic Affairs or the Vice President for Development. For an appeal involving a Respondent who is an employee, the Appellate Authority is typically a vice president or senior level administrator.

**The appeal process outlined in this Policy supersedes the grievance procedures contained in the Employee Handbook and in the Faculty Handbook.**

The appeal will be conducted in an impartial manner by the Appellate Authority. In any request for an appeal, the burden of proof lies with the party requesting the appeal; the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter. The Appellate Authority shall consider the merits of an appeal only on the basis of the grounds for appeal as set forth in this Section. Except as required to explain the basis of new information unavailable at the time of an investigation, the Appellate Authority's review of an investigation will be limited to the written investigation Report and all supporting documents.

The Appellate Authority can affirm the Adjudicator's original findings and sanctions, request a new investigation or adjudication, and/or alter the sanctions, depending on the basis of the requested appeal. If the appeal is based on material deviation from the Policy that affected the outcome of the case, the Appellate Authority can ask that a new investigation and/or adjudication occur. If an appeal is based on newly discovered information that could affect the finding of the Adjudicator, the Appellate Authority can recommend that the case be returned to the Adjudicator to assess the weight and effect of the new information and render a determination after considering the new facts.

The Appellate Authority will communicate the result of the appeal to the Complainant and Respondent in writing, within ten (10) business days from the date of the submission of all appeal documents by both parties. An appeal decision is a final decision of the University.

## XV. Additional Considerations

### A. Time Frames for Resolution

The University will make every effort to resolve all reports of sexual harassment within sixty (60) calendar days. All time frames expressed in this Policy are intended to be guidelines rather than rigid requirements. Circumstances may arise that require the extension of time frames, including an extension beyond sixty (60) calendar days. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In the event that the investigation and resolution are anticipated to exceed the sixty (60) calendar day time frame, the Title IX Coordinator will notify all parties of the reason for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. All parties involved are entitled to periodic status updates on the progress of the complaint investigation and any subsequent appeals.

### B. Group Infractions

When members of a student group, organization, or team, or individuals acting collusively, act in concert in violation of the Policy, they may be charged as a group, or as individuals, and an investigation may proceed against the group as joint Respondents, or against one or more involved individuals, as appropriate, given the available information and circumstances.

Both officers and members of a student group, organization, or team may be held collectively and individually responsible when violations of this Policy by the organization or its members take place at an organization sponsored event, have received the consent or encouragement of the organization or of the organization's leaders or officers, or was known or reasonably should have been known to the membership or its officers.

In any such action, individual determinations as to responsibility will be made. Sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual.

### C. Support Advisors

**Support Advisor:** Throughout the process, the Complainant and Respondent have the right to be assisted by a Support Advisor. The Support Advisor may accompany the Complainant or Respondent to any meeting with an investigator or a University employee.

**For faculty and staff:** The Support Advisor may not be a witness, legal counsel, and/or a parent or guardian of the Complainant or Respondent. The Support Advisor can assist the party without conflict, should not be related to anyone involved in the complaint, or have another role in the process that could impair his or her role as Support Advisor. Any person who serves as a Support Advisor should plan to make themselves available for meetings throughout the process.

**For students:** Pursuant to the 2013 Reauthorization of the Violence Against Women Act, students have the right to be accompanied by a Support Advisor of her/his choice. The Support Advisor may be anyone of the student's choosing including a friend, mentor, family member, attorney, or any other supporter. A Support Advisor is someone who is not otherwise a party or witness involved in the investigation. The Support Advisor must be able to assist the party without conflict and cannot have another role in the process that could impair his or her role as Support Advisor. Any person who serves as a Support Advisor should plan to make themselves available for meetings throughout the process.

The Support Advisor may be present at any meeting or hearing related to the resolution of a report under the Policy. However, the Support Advisor may not speak or otherwise participate in the meetings and must comport himself/herself in a manner that is not disruptive to the meetings. Disruptive behaviors include intervening in meetings or hearings, addressing the investigator or hearing panel, questioning witnesses, or making objections. The Title IX Coordinator has the discretion at all times to determine what constitute appropriate behavior on the part of the Support Advisor.

## **D. Role of the Attorney/Outside Agreements**

A Complainant or Respondent may choose to seek the advice and assistance of an attorney at her his own expense, but the attorney may not participate in investigatory interviews, mediation, or adjudication. Similarly, the University will not recognize or enforce agreements between the parties reached outside of these procedures.

## **E. Prior Sexual History**

In general, a Complainant's prior sexual history is not relevant to the resolution of a report under this Policy and will not be accepted as evidence during an investigation. Where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As set forth in Section VII of this Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute effective consent. Any prior sexual history of the Complainant with individuals is typically not relevant and will not be permitted.

## **F. Pattern Evidence**

Where there is evidence of a pattern of conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to a determination of responsibility and/or assigning of a sanction. The determination of relevance will be based on an assessment of whether:

- ◆ The previous incident was substantially similar to the present allegation;
- ◆ The information indicates a pattern of behavior and substantial conformity with that pattern by the Respondent; or
- ◆ The Respondent was previously found responsible for a Policy violation.

Any party seeking to introduce information about pattern evidence should bring this information to the attention of the Investigative Team at the earliest opportunity. The Investigative Team may choose to consider this information, with appropriate notice to the parties.

Where a sufficient informational foundation exists, the Investigative Team, in consultation with the Title IX Coordinator, will assess the relevance, form, and reliability of the information (hearsay may be excluded) and determine if it is appropriate for inclusion in the written investigation report.

## **G. Consolidation of Investigation**

The Title IX Coordinator has the discretion to consolidate multiple reports against a Respondent into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident.

## **H. Records**

The Title IX Coordinator will retain records of all reports, allegations, and complaints, regardless of whether the matter is resolved by Title IX assessment, remedies-based resolution, or judicial resolution. Complaints resolved by Title IX assessment or remedies-based resolutions do not become a part of a student's conduct file or academic record.

Affirmative findings of responsibility in matters resolved through judicial resolution become a part of a student's conduct record or an employee's personnel file. Such records shall be used in reviewing any further conduct or in developing sanctions and shall remain a part of a student's conduct record or employee's personnel records. In general, records will be maintained for the duration of the Respondent's relationship with the University, and may be retained for no less than seven years following the Respondent's departure from the University. In allegations involving child abuse or misconduct by employees warranting termination, the records may be kept indefinitely.

## I. Prohibition on Recording

Neither of the parties, witnesses, nor the support advisors and/or attorneys are permitted to make video, audio, or other electronic, photographic, or digital recording of any meeting or proceeding held under this Policy.

## XVI. Education and Prevention Programs

The University is committed to the prevention of Prohibited Conduct through education and awareness programs. The University is also committed to the protection of minors and the prevention of child abuse. Throughout the year the University offers educational programs to promote awareness of Prohibited Conduct. Programs are held throughout the year, as announced. Prevention programs include an overview of the University's policies and procedures, relevant definitions, including Prohibited Conduct, discussion of the impact of alcohol and illegal drug use, effective consent, safe and positive options for bystander intervention, education on healthy relationships, and information about risk reduction. Incoming first year students and new employees will receive primary prevention and awareness programming as part of their orientation. The University's Title IX Coordinator oversees the education and prevention calendar and tailors programming to campus needs and climate. All educational programs include a review of resources and reporting options available for students, faculty, and staff.

The University reserves the right to make changes to this policy as necessary and once those changes are posted online, they are in effect. Individuals are encouraged to check online for the most current versions of all policies and procedures.

