

**Employee Title IX Policy, Procedures,  
and Information**  
*Addressing Sexual Discrimination, Sexual Misconduct, Dating and  
Domestic Violence, and Stalking*

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## II. OVERVIEW

### A. INTRODUCTION

Davidson College is committed to creating and maintaining an environment that is free of sex discrimination and that promotes a healthy spirit of responsibility, dignity, and respect in matters of sexual conduct and interpersonal relationships. Sex discrimination includes sex-based harassment which encompasses sexual harassment, sexual assault, dating violence, domestic violence, and other harassing conduct on the basis of sex. The College does not condone and will not tolerate sex discrimination, sexual misconduct, relationship abuse and violence, or stalking. This Policy provides recourse for employees and nonemployees who have experienced sex discrimination, sexual misconduct, relationship abuse and violence, or stalking, and establishes a process for the College to determine whether specific behaviors constitute violations of this Policy.

Any individual who has been the target of sexual harassment, stalking, or relationship abuse or violence has the option to make a report to campus police or local law enforcement, to seek support and adaptable resolution through Davidson's internal procedure as outlined in this Policy, to do both, or to do neither.

The College strongly encourages all members of our community to report any act of sex discrimination and to seek appropriate health care and support even if the reporting person does not want to initiate Davidson's internal procedure. Sexual assault (including rape), physical violence, and stalking are serious criminal acts and we encourage reporting of incidents to the police.

This Policy has been developed consistent with Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), its implementing regulations, 34 C.F.R. Part 106, and significant guidance documents published by the U.S. Department of Education Office for Civil Rights; and with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) ("the "Clery Act") and its implementing regulations, 34 C.F.R. Part 668. Please note that the definitions and standard of review in this Policy differ from North Carolina criminal law. (Refer to the College's Annual Security Report for the North Carolina criminal law definitions for sex offenses, stalking, domestic violence, and dating violence.)

## B. NOTICE OF NON-DISCRIMINATION

Davidson College expressly prohibits any form of discrimination or harassment based on race, color, ethnicity, national origin, religion, age, disability, sex (including pregnancy), gender or gender identity, sexual orientation, and any other status protected by applicable federal, state, or local law. (see Non-Discrimination, Non-Harassment, and Equal Employment Opportunity Policy).

Inquiries about Title IX may be referred to Davidson's Title IX Coordinator, Carley Dix, Title IX Coordinator, Section 504 Coordinator and Compliance Officer, Chambers 1255, (704) 894-2591, [cadix@davidson.edu](mailto:cadix@davidson.edu).

External Reporting: Inquires about Title IX may also be made to the U.S. Department of Education's Office of Civil Rights, or both

Washington DC (Metro)  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1475

Telephone: 202-453-6020      FAX: 202-453-6021      TDD: 800-877-8339  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

To report information about conduct that may not constitute discrimination or harassment or make a complaint of discrimination or harassment that is not covered by this policy, please reach out to

### **DEAN OF STUDENTS**

**Main Phone**

704-894-2225

**Main Email**

[deanofstudents@gmail.com](mailto:deanofstudents@gmail.com)

The Dean of Students office has trained staff who can help students identify and explain resolution options and resources related to possible experiences of discrimination and harassment.

### **HUMAN RESOURCES**

**Main Phone**

704-894-2213

The Human Resource office has trained staff who can help employees identify and explain resolution options and resources related to possible experiences of discrimination and harassment.

## C. COORDINATION WITH NON-DISCRIMINATION POLICY

The College recognizes that harassment and discrimination related to an individual's sex, gender or sexual orientation, can occur in conjunction with harassment related to an individual's race, color, ethnicity, national origin, religion, age, or disability. Targeting individuals on the basis of these

characteristics is also a violation of our community standards. Under these circumstances, the College will coordinate the investigation and resolution efforts to address harassment and discrimination related to the targeted individual's sex, sexual orientation, or gender together with the conduct related to the targeted individual's race, color, ethnicity, national origin, religion, age, or disability.

#### D. SCOPE

This policy applies to reports of prohibited conduct where a student is not a party. Any member of the campus community may bring forth a concern under this policy, including other employees (regular and temporary), and other individuals associated with Davidson College including but not limited to: visitors, volunteers, independent contractors, vendors or other third parties with whom the College has business or educational dealings. This policy may also pertain to instances in which the conduct occurred outside the campus or College-sponsored activity if the College determines that the off-campus conduct affects a substantial College interest, including access to the education program or activity, safety and security, compliance with applicable law, and meeting its educational mission.

The status of a party may impact which resources and remedies are available to them, as described in this policy. Obligations in this policy assigned to a particular title, such as the Title IX Coordinator, may be designated as appropriate by the College, including external professionals.

For reports involving a student party, see *Policies, Procedures and Information on Sexual Harassment, Sexual Misconduct, Relationship Abuse and Violence, and Stalking* available at: <https://www.davidson.edu/offices-and-services/dean-students/sexual-misconduct/policy-procedures>

All College community members are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. Members of the Davidson College community have a responsibility to adhere to College policies and local, state, and federal law.

#### E. COMMITMENT TO ACADEMIC FREEDOM

Teaching, performing research, and learning are subject to the protections of "academic freedom" as described in the College's policy on academic freedom. Actions or words used in the context of the academic curriculum and teaching environments that serve legitimate and reasonable educational purposes will not be evaluated as harassment or other unlawful discrimination because of the principles underlying academic freedom. However, academic freedom is not a legitimate defense in the case of bona fide discrimination or harassment including sexual harassment.

### III. RESOURCES

#### A. ON CAMPUS ASSISTANCE OPTIONS

In an emergency situation, go to a safe location and call 911.

If an individual has been the target of sex discrimination, including, sex-based harassment, dating or domestic violence, or stalking and is seeking immediate assistance, there are several on-and off-campus options available.

##### **Campus Police**

The Davidson College Public Safety Office has staff trained in how to respond to a report of sexual harassment, relationship abuse and violence, or stalking. If preferred, the individual may request to speak to the Interpersonal Violence Officer. Campus Police can assist you with personal safety, seeking medical attention, preserving evidence, or filing a police report. Campus Police also can contact other on- campus and off-campus resources to assist you.

Main Office Phone	704-894-2178 704-892-7773 (24 hour)
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##### **Human Resources Office**

The Human Resources office has trained staff who can help identify and explain options and resources and can connect Reporting Parties with additional on-campus and off-campus resources.

Main Office Phone	704-894-2213
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##### **Employee Assistance Program**

Counselors provided through the Employee Assistance Program (EAP) for Davidson College can help with many concerns and use of the EAP is held in strict confidence. Each employee (and their family members) are provided up to six free sessions annually with an EAP counselor.

Phone	877-240-6863 (24 hour)
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B. OFF CAMPUS IMMEDIATE ASSISTANCE OPTIONS

**Town of Davidson Police**

The Davidson Police Department is available 24 hours a day, 365 days a year to meet with any victim of sexual assault, domestic violence, physical assault or the crime of stalking. Its officers are committed to conducting a full criminal investigation into these allegations. The Davidson Police Department also provides a Victim-Witness Advocate who is trained to support and assist victims of domestic violence and sexual assault. This support is provided as the case is investigated. There are no costs for these services.

Main Phone (24 hour)	704-892-5131
Emergency (24 hour)	911

C. COMMUNITY RESOURCES

**Crisis, Medical Intervention, and Emergency Shelter Services**

- Safe Alliance 704-332-9034
- Victim Assistance and Rape Crisis (24 hour) 704-375-9900
- Mecklenburg County Support Services 704-336-3210
- Domestic Violence Healthcare Project (CMS) 704-446-3999
  - (Based at Carolinas Medical Center)
- Project Safe 704-614-7212
  - (based at Presbyterian Hospital)

IV. PROHIBITED ACTS

This Policy’s definitions and standard of review differ from North Carolina criminal law. Neither law enforcement’s determination whether to prosecute nor the outcome of any criminal prosecution is determinative of whether a violation of this Policy has occurred. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

The following defined acts are prohibited, regardless of the sex, sexual orientation, gender identity, or gender expression of the individuals involved.

## A. PROHIBITED ACTS DEFINED

The following conduct is prohibited under this Policy.

**Discrimination on the basis of sex** includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Discrimination is defined as treating members of a protected category less favorably because of their actual or perceived membership in that category or as having a policy or practice that adversely impacts the members of one protected category more than others.

**Retaliation** means intimidation, threats, coercion, or discrimination engaged in against any person, by the College, a student, or an employee or other person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including an informal resolution process, grievance procedures, and in any other actions taken by the College in response to a report of sex discrimination.

**Sex-Based Harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that is:

Quid Pro Quo: An employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which conduct affected the complainant's ability to access the College's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the College's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and



- Other sex-based harassment in the College's program or activity.

Sexual Assault is an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:

- 1) Rape – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- 2) Fondling – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- 3) Incest – Sexual intercourse between person who are related to each other within the degrees wherein marriage is prohibited by law.
- 4) Statutory Rape – Sexual intercourse with someone who is under the statutory age of consent.

**Dating Violence** Violence committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.

**Domestic Violence** Any violence that may constitute felony or misdemeanor crime of violence committed: (a) by a current or former spouse or intimate partner of the Complainant, (b) by a person with whom the Complainant shares a child in common, (c) by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, (d) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of North Carolina, or (e) by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of North Carolina.

**Stalking** Engaging in a "course of conduct," on the basis of sex, directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or "suffer substantial emotional distress." Under this section, "course of conduct" is defined as two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or

through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; and "substantial emotional distress" is defined as a significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**Sexual Exploitation** "Sexual Exploitation" occurs when an individual takes non-consensual or abusive sexual advantage of another to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to: engaging in voyeurism; electronic transmission of pornographic or other sexually inappropriate material; exposing one's genitals or breasts in non-consensual circumstances or inducing another to expose genitalia or breasts; and any other sexual activity that goes beyond the boundaries of consent, such as recording of sexual activity, allowing another person to observe sexual activity without the other person's consent, or engaging in sexual activity while knowingly infected with a sexually transmitted infection (STI) or Human Immunodeficiency Virus (HIV) without informing the other person of the infection.

## **B. RELATED TERMS**

1. **Consent** "Consent" means the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter.
  - a. Consent can be communicated by either explicit verbal consent or overt action clearly expressing consent. Such signals of consent must be mutual and ongoing, as well as offered freely and knowingly.
  - b. Consent cannot be inferred under circumstances in which consent is not clear, including but not limited to the absence of "no" or "stop," or the existence of a prior or current relationship or sexual activity. As well, a verbal "no," even if it may sound indecisive or insincere, constitutes a lack of consent. If at any time during a sexual encounter any confusion or ambiguity should arise on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify the other's willingness to continue. Consumption of alcohol, in and of itself, does not relieve an individual of responsibility to obtain ongoing consent.
  - c. An individual who is asleep, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or who was under duress, threat, coercion, or force, is not able to consent. An individual who is

under the age of 16 is not able to consent. Indications of consent are irrelevant if the person is not able to consent.

2. **Sexual Coercion** The application of unreasonable pressure, including emotionally or physically manipulative actions or statements, or direct or implied threats, in order to compel the person to engage in sexual activity." A person's words or conduct are sufficient to constitute coercion if they impair another individual's ability to choose whether or not to engage in sexual activity.
3. **Incapacitation** "Incapacitation" is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., the understand the who, what, when, where, why, or how of the sexual activity) and/or is physically helpless. Incapacitation can result from sleep, unconsciousness, mental or physical helplessness, ingestion of substances, or lack of awareness that sexual activity is taking place.
  - a. Incapacitation may result from the use of alcohol or drugs, but consumption of alcohol or drugs alone is not sufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's decision-making ability; awareness of consequences; ability to make informed judgements; and capacity to appreciate the nature and the quality of an act.
  - b. Evaluating incapacitation also requires an assessment of whether the Respondent knew or should have known that the Complainant was incapacitated. In determining whether the Respondent should have known that the Complainant was incapacitated, the standard is whether a reasonable sober person should have known that the Complainant was incapacitated. Indicators of incapacitation may include the following: bloodshot or unfocused eyes; concern expressed by others about the individual; memory loss or disorientation; outrageous or unusual behavior; slurred speech; unsteady gait; vomiting, unconsciousness, and going in or out of consciousness.
4. **Preponderance of the Evidence** The Decisionmaker considers the greater weight of the credible evidence to determine whether a Policy violation occurred. Under this evidence review standard, the Decisionmaker, after

considering all evidence, would find that a policy violation occurred if the alleged violation is more likely than not to be true than untrue.

5. **Education Program or Activity** Davidson’s “education program or activity” includes all campus operations, including off-campus settings that are operated or overseen by the College, including, for example, field trips, online classes, and athletic programs; conduct subject to the College’s disciplinary authority that occurs off-campus; conduct that takes place via College-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, the College. Conduct that occurs outside of the education program or activity may contribute to a hostile environment within the program or activity.
6. **Bias** Bias is defined as an unfair prejudice in favor or against a party based on a party’s race, ethnicity, national origin, sex, gender identity, sexual orientation, disability, age or religion and associated stereotypes.
7. **Reporting Party** An individual who reports an experience of sex discrimination.
8. **Complaint** A complaint means an oral or written request to the Title IX Coordinator that objectively can be understood as a request for the College to investigate and make a determination about alleged sex discrimination under this policy. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. Individuals who would like more information about initiating an investigation are invited to contact the Title IX Coordinator for additional information.
9. **Days** When computing time periods for actions in this Policy, the following rules apply: (a) Exclude the day of the event that begins the period (b) Exclude any intermediate Saturdays, Sundays, and college holidays (i.e., only business days are counted) (c) When an act must be done within a specified time, the act must be completed by 5 p.m. on the last day of the period.
10. **Complainant** The “Complainant” is the individual who initiates a Complaint of sex discrimination. In the case of complaints that are pursued when the affected individual is unable or unwilling to participate in the process, the College may pursue the complaint in which case the College shall be the Complainant.
11. **Respondent** The “Respondent” is the individual whose conduct is alleged to have violated this Policy and whose conduct is being investigated.
12. **Investigator** The “Investigator” is an individual who has received specialized training in conducting sex discrimination investigations and has been assigned by the Title IX Coordinator to investigate an alleged violation of this

Policy. Investigators are neutral fact finders who, during the course of the investigation, typically conduct interviews with the Complainant, the Respondent, and third-party witnesses; take custody of any physical or electronic records or documents to be included in an investigation report; and, where applicable, coordinate with Campus Police or other law enforcement agencies. Investigators prepare a written investigation report for the Dean of Students to use to determine whether to charge the Respondent with a violation of this Policy.

13. **Advisor** An "Advisor" is an individual who provides the Complainant or Respondent support, guidance, or advice. The Complainant and Respondent may have the Advisor of their choice present during any meeting or proceeding related to complaint resolution under this Policy. The College will provide a list of trained Advisors available to provide guidance and support to the student. Students are not required to choose an Advisor from the list of trained Advisors.
14. **Support Person** The Complainant and Respondent may each have one Support Person present at any meeting or proceeding related to a complaint resolution under this Policy, to provide support. A Support Person may be in addition to an Advisor. A Support Person cannot be a party to the complaint (i.e. a witness, co-complainant, or co-respondent). The Support Person has no formal role in the investigation process. The Support Person's role in any meeting or proceeding during the complaint resolution process is limited to requesting reasonable breaks to confer privately with the Complainant or Respondent. Support Persons may not record the meetings, take notes, ask questions, or otherwise actively participate in meetings. While the College will make reasonable efforts to accommodate the schedule of a party's Support Person in scheduling meetings, a Support Person's inability to attend a meeting does not constitute an unavoidable conflict that would necessitate rescheduling a meeting or proceeding. The College will provide a list of trained Support Persons available to provide guidance and support to the student. Students are not required to choose a Support Person from the list of trained Support Persons.
15. **Decisionmaker** Trained professional designated by the College to decide responsibility, sanction, or appeals. A Decisionmaker may be one person or a panel of multiple people as determined by the College. Consistent with applicable law, the investigator may be appointed as the Decisionmaker.
16. **Title IX Coordinator** As a recipient of Federal funds, Davidson College is required to comply with Title IX of the Education Amendments of 1972, 20 USC § 1681 et seq. ("Title IX"). Title IX prohibits discrimination on the basis of sex in Education Programs or Activities. The "Title IX Coordinator" is responsible for overseeing the College's response to Title IX reports and complaints and identifying and addressing any patterns or systemic problems

revealed by such reports and complaints. The Title IX Coordinator also has responsibility for weighing a student's request for confidentiality and determining whether supportive measures are appropriate. The Title IX Coordinator is available to advise all parties about the courses of action available at the College and action available externally, including reports to law enforcement. Davidson College's Title IX Coordinator is:

**Carley Dix, Title IX Coordinator, Section 504 Coordinator, and Compliance Officer Chambers 1255, (704) 894-2591, [cadix@davidson.edu](mailto:cadix@davidson.edu).**

## V. REPORTING

Any individual who has been the target of sex discrimination is encouraged to report the incident.

### A. WHERE TO REPORT

The College provides the following options for reporting an act of sex discrimination. Reporting an incident is encouraged: through reporting, the College can ensure individuals have access to counseling services, support services, and any other supportive measures that are appropriate. Incident reports also provide information to help the College provide a safe and non-discriminatory environment for all members of the College community

All non-confidential reports made to College employees must be reported to the Title IX Coordinator, who will reach out to schedule a meeting with you to review your options and all available resources. The College will limit disclosure of information included in a non-confidential report to those individuals involved in the College's response to the report and to legally required or permitted disclosures. This means only people who need to know will be told.

- 1. Report to Title IX Coordinator** Davidson College has a designated Title IX Coordinator to oversee compliance with Title IX, which prohibits discrimination on the basis of sex in Education Programs or Activities. All reported incidents of sex discrimination occurring as part of the College's educational program or activities are reviewed by the Title IX Coordinator. The Title IX Coordinator will provide you with a written explanation of your rights and options under this Policy, including resources and services available to you, your option to request assistance or supportive measures, and an explanation of the College's internal resolution options and procedures, that retaliation is prohibited, the right to an advisor of choice, and where applicable, the right to notify law enforcement as well as the right not to notify law enforcement, the importance of preserving evidence The Title IX Coordinator also will report the alleged incident to

Campus Police for Clery Act purposes but may refrain from disclosing personally identifiable information about you to Campus Police at your request.

2. **Report to Campus Police** The Davidson College Police Department has staff trained in how to respond to a report of sexual harassment, relationship abuse and violence, or stalking. If you prefer, you may request to speak to the Interpersonal Violence Officer. Campus Police can assist you with personal safety, seeking medical attention, preserving evidence, or filing a police report. Campus Police also can contact other on- and off-campus resources to assist you. Campus Police will record the report for Clery Act purposes but shall do so without disclosing any personally identifiable information about the Complainant. Although the College strongly encourages all members of its community to report violations of this Policy to law enforcement, it is your choice whether or not to make such a report and you have the right to decline involvement with the police.
3. **Report to a Supervisor** Employees may talk to their supervisor (direct or next level) to report an incident of sex discrimination. Reports made to a supervisor will be referred to the Title IX Coordinator for assessment. A supervisor who receives a report must provide all relevant details about the alleged discrimination to the Title IX Coordinator including the date, time, and location of the alleged discrimination, and the names of: the person who provided the report, the individual who experienced the alleged discrimination, the individual(s) accused of committing the alleged discrimination, and anyone else involved in the alleged discrimination.

## VI. COLLEGE RESPONSE TO REPORTS

The College is committed to taking appropriate action to resolve incidents of sex discrimination and to ensure a safe and non-discriminatory environment for all employees.

The College will undertake an appropriate inquiry into all reports involving employees, regardless of whether the Reporting Party wishes to pursue resolution of any kind. The specific steps in the College's inquiry will vary depending on the nature of the allegations; the information available to the College; whether the Reporting Party elects to pursue criminal charges, initiates a Complaint, or requests the College not to pursue actions; and other factors.

As a general rule, the College will not conduct an investigation or take any action without first obtaining the Reporting Party's consent and will conduct any investigation and respond to a report consistent with the Reporting Party's request



for confidentiality or request not to pursue action. The College's ability to respond to a report, to prevent its recurrence, or to address its effects may be severely limited if the Reporting Party requests confidentiality, does not provide the name of the Responding Party, or asks that the report not be pursued.

**A. Requests for Confidentiality** In cases where the Reporting Party requests confidentiality or requests the College not to take any action in response to a report, the Title IX Coordinator or designee will conduct a preliminary assessment into the alleged Policy violation and will balance this request with the College's commitment to providing a safe and non-discriminatory environment to all members of the College community. The Title IX Coordinator or designee will consider many factors when determining whether or not the College can honor the request for confidentiality or no action, including, but not limited to:

1. The information provided suggests that the Responding Party has committed prior acts and/or suggests an increased risk that Responding Party will commit additional acts that would violate this Policy or are otherwise violent acts;
2. The Reporting Party's reasonable safety concerns regarding initiation of a complaint;
3. The risk that additional acts of Prohibited Conduct would occur if the complaint is not initiated;
4. The severity of the alleged Prohibited Conduct, including whether the discrimination, if established, would require the removal of a Responding Party from campus or imposition of another disciplinary sanction to end the discrimination and prevent it reoccurrence;
5. The information provided suggests that the act is part of a larger pattern at a specific location or by a particular group and thus there is an increased risk of future violations of this Policy under similar circumstances;
6. The alleged misconduct was committed by multiple perpetrators;
7. The alleged misconduct was perpetrated with a weapon;
8. The age and relationship of the parties;
9. The College has other means to obtain relevant evidence (e.g., security camera footage, physical evidence, additional witnesses);
10. Whether the College could end the alleged sex discrimination and prevent its recurrence without initiating its resolution procedures under this policy;
11. Whether the conduct as alleged present an imminent and serious threat to the health or safety of the Reporting Party or other person, or that the conduct as alleged prevents the College from ensuring



equal access on the basis of sex to its education program or activity;  
and/or

12. The facts warrant issuance of a timely warning.

In appropriate cases, the College may be able to take steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal disciplinary action against the Responding Party or reveal the identity of the Reporting Party.

However, the Title IX Coordinator or the Chief Human Resources Officer may determine that, in the interest of providing a safe and nondiscriminatory environment, it is necessary for the College to act on information it has received. In that event, the Reporting Party will be informed of this determination before the College takes action in response to the report. The College's response will depend on the circumstances of the report, but could include:

1. Putting temporary measures in place to ensure a safe and non-discriminatory work environment; and/or
2. Initiating a Complaint on behalf of the affected individual, in which case the College will be the Complainant.

The College cannot withhold the Reporting Party's name from the Responding Party once the College takes action that affects the Responding Party.

**B. Supportive Measures** Upon receipt of a report of an alleged Policy violation, the College may determine that supportive measures are necessary to ensure a safe and nondiscriminatory environment for employees. The Title IX Coordinator will offer and coordinate supportive measures as necessary for parties to restore or preserve that person's access to the College's education program or activities or to provide support during complaint procedures or an informal resolution process. Supportive measures may include adjustments and informal resolutions. Adjustments are changes made to a Reporting or Responding Party's work schedule, work location, or work assignments. Informal Resolutions may include resources, conversations, and agreements that assist employees with working through challenges and preventing future challenges. Adjustments and Informal Resolutions are voluntary and may be modified or discontinued at any time at the request of the Reporting or Responding Party.

Supportive measures are separate from any disciplinary action imposed after the Decisionmaker makes a determination of responsibility and are not disciplinary in nature. They are imposed by the Title IX Coordinator in consultation with the Chief Human Resources Officer and may be imposed at any time, regardless of whether formal disciplinary action is sought by the Reporting Party or the College. They may be extended beyond and/or imposed after complaint resolution procedures are completed.

The Title IX Coordinator has the discretion to implement or modify supportive measures.

- C. **Requests for Supportive Measures** Employees seeking the assistance of supportive measures should speak with the Title IX Coordinator, who will evaluate and, if warranted, will coordinate the request. Supportive measures may be requested by both the Reporting and Responding parties.

The specific supportive measures implemented and the process for implementing those measures will vary depending on the facts of each case. The Title IX Coordinator will consider, among other factors, the specific needs expressed by the Reporting Party; the severity or pervasiveness of the allegations; any continuing effects on the Reporting Party; whether the actions requested will be unreasonably burdensome on the Responding Party, and whether the Reporting Party and Responding Party share the same on-campus job location.

#### **Supportive Measure Options for Adjustments:**

- Alteration of work schedules or job assignments
- Alteration of office arrangements
- Access to counseling services and related release time
- Providing an escort to ensure safe movement on campus
- Other remedies that may be tailored to the involved individuals to achieve the goals of this Policy

#### **Supportive Measure Options for Informal Resolutions:**

1. **Conflict Coaching** – Employees may seek guidance and resources from the Title IX Coordinator or trained staff person to navigate conflict productively and independently.
2. **Shared Expectations Agreement** – A Shared Expectations Agreement is a voluntary agreement between two employees specifying how the Reporting Party and Responding Party will navigate certain areas, organizations, or activities on campus. Shared Expectations Agreements are facilitated by the Title IX Coordinator. Before an agreement is finalized the Title IX Coordinator must speak with the Responding Party to understand how the Responding Party engages with that area, organization, or activity in order to determine if it is reasonable to restrict the Responding Party's access. Requests or agreements that are unreasonably burdensome on either party will not be approved by the Title IX Coordinator. Additions and edits to the Shared Expectations Agreement may be requested by either party.

Shared Expectation Agreements are agreements between two employees, therefore, failure to abide by a Shared Expectations Agreement may result in a renegotiation of the agreement or referral to Human Resources if further intervention is needed.

3. **Educational Discussion** – Educational discussions are a meeting with the Title IX Coordinator to discuss behavior concerns that have been reported to the Title IX Coordinator in which the Reporting Party has requested educational intervention. The purpose of the meeting is to provide the Responding Party with information and guidance allowing the Responding Party to move forward positively with individually identified support and resources.
4. **Facilitated Discussion** – Facilitated discussions are discussions mediated by the Title IX Coordinator between parties or group experiencing impact or harm related to sex discrimination. Facilitated discussion can occur in-person, through written communication, or any other communication method deemed appropriate by the Title IX Coordinator. Facilitated discussion can be utilized for understanding or as part of an informal resolution.

**Reporting Violations of Supportive Measures** All individuals are encouraged to report concerns about the failure of another individual to abide by restrictions imposed by a supportive measure. Failure to abide by restrictions imposed by a supportive measure may be a violation of the Disciplinary Action policy in the Employee Guide.

**Challenging Supportive Measures** A party may challenge the College's decision to provide, deny, modify, or terminate supportive measures when such measures are applicable to them. If a party is initiating a challenge, they must notify the Title IX Coordinator. The Title IX Coordinator will then designate an impartial employee to consider modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures. The party must provide the designated employee with their reasoning for challenging the supportive measure. The impartial employee will typically respond to the challenge within five (5) days.

Challenges to the College's decision to provide, deny, modify, or terminate supportive measures may include, but are not limited to:

- whether a supportive measure is unreasonably burdensome,
- whether a supportive measure is reasonably available,
- whether the supportive measure is being imposed for punitive or disciplinary reasons,
- whether the supportive measure is being imposed without fee or charge, and
- whether the supportive measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the education program or activity, provide safety, or provide support during the grievance procedures.

## VII. INITIATING A COMPLAINT

- A. Initiating These Procedures** To initiate the College's Investigation & Decision-Making Resolution, the Complainant must initiate a Complaint with the Title IX Coordinator. A Complaint does not need to be filed to initiate in Informal Resolution procedures.
- B. Who May Initiate** An individual may initiate a Complaint against an employee for an alleged violation of this Policy, if at the time of initiating a Complaint, the individual is participating in or attempting to participate in the education programs or activities of Davidson College or is an employee of Davidson College.

In the event the Title IX Coordinator determines the College must initiate a Complaint on behalf of an affected individual who has requested confidentiality or is otherwise unable or unwilling to participate in the process, the College shall be the Complainant and the affected individual shall be considered a witness. The affected individual will be entitled to receive all notifications due to a Complainant under this Policy, including notifications regarding the outcome of the complaint resolution procedures.

- C. Review of Complaint** Upon receipt of a Complaint, the Title IX Coordinator will first determine whether the allegations in the Complaint, if proven, would constitute a violation this Policy.

Before dismissing a complaint, Davidson will make reasonable efforts to clarify the allegations with the complainant.

Davidson may dismiss a complaint if:

- Davidson is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in Davidson's education program or activity and is not employed by the College;
- The Complainant voluntarily withdraws their complaint in writing and the Title IX Coordinator declines to initiate a complaint;
- The Complainant voluntarily withdraws some but not all allegations in complaint in writing, and the College determines that the conduct that remains alleged in the complaint would not constitute Prohibited Conduct under this policy; or
- Davidson determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under this policy.

Upon dismissal, Davidson will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then Davidson will notify the parties simultaneously in writing. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX

Coordinator will include that information in the notification. Davidson will notify the Complainant that the dismissal may be appealed on the basis outlined in the Appeals section. If the dismissal occurs after Respondent has been of the allegations, then the College will notify the Respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, Davidson will follow the procedures outlined in the Appeals sections of these procedures.

**D. Coordination with Non-Discrimination and Non-Harassment Policy** A dismissal does not preclude action under the Davidson College Non-Discrimination and Non-Harassment Policy. Dismissed complaints will be referred to Human Resources for further review. In cases where a Complaint may be investigated under both the Non-Discrimination and Non-Harassment Policy and this Policy, the Title IX Coordinator will coordinate with Human Resources to complete both investigations while communicating with parties to ensure that the Complainant and Respondent understand their rights under both policies.

**F. Role of an Advisor** The Complainant and Respondent may have the Advisor of their choice present during any meeting or proceeding related to complaint resolution procedures under this Policy, including meetings related to investigation of the Complaint. The Advisor's role is to provide support, guidance, or advice to Complainant or Respondent. Notices and information related to complaint resolution under this Policy will be provided to the parties and their Advisors. Advisors are required to keep such materials confidential unless the Advisor is otherwise authorized to disclose the information contained therein.

The Advisor has no formal role in the investigation process or the adaptable resolution process. The Advisor's role in any meeting during the investigation is limited to requesting reasonable breaks to confer privately with the advisee. Advisors may not record the meetings, ask questions, or otherwise actively participate in meetings.

While the College will make reasonable efforts to accommodate the schedule of a party's Advisor in scheduling meetings, an Advisor's inability to attend a meeting does not constitute an unavoidable conflict that would necessitate rescheduling a meeting or proceeding.

The College will provide a list of trained Advisors available to provide assistance and support to the Complainant and Respondent. Employees are not required to choose an Advisor from the list of trained Advisors. Parties must provide the Title IX Coordinator with notice of the identity of their Advisor of choice prior to the Advisor attending a meeting or proceeding under this Policy, at least one day in advance.

## VIII. RESOLUTION OPTIONS

### A. Adaptable Resolution

Adaptable resolution is a voluntary, structured process that facilitates communication between a Complainant and Respondent (in person or via shuttle negotiation) with the goal of addressing prohibited conduct through a resolution agreement agreed to by both parties. The format of adaptable resolution is tailored to meet the needs of the Complainant and Respondent. Adaptable resolution allows parties to create an agreement that meets the interests of both parties based on the harm experienced without formal disciplinary action against the Respondent. The time frame for completion of adaptable resolution will vary based on the issues that need to be addressed by the parties and the format that parties have chosen. The College will attempt to complete an adaptable resolution within thirty (30) days of the parties agreeing to engage in an adaptable resolution process.

The Title IX Coordinator has the discretion to determine if it is appropriate to use an adaptable resolution. The adaptable resolution will be facilitated by the Title IX Coordinator or a trained individual appointed by the Title IX Coordinator. If the Title IX Coordinator believes that they or the trained individual cannot fairly facilitate the process due to bias or a conflict of interest, the Title IX Coordinator will appoint another trained individual. Complainant and Respondent may report any concerns about bias or conflict of interest to the Title IX Coordinator who will determine whether another trained individual should be assigned. Requirements for Participation in an Adaptable Resolution Process:

1. Both Complainant and Respondent must consent in writing to engage in adaptable resolution, and either party may end the adaptable resolution process at any time, for any reason, prior to the signing of a resolution agreement.
2. Complainant and Respondent must agree that conduct or statements made by and between parties during an adaptable resolution process may not be used in any other College process including a formal sex discrimination investigation.
3. If parties are unable to reach a resolution, the matter may be referred to investigation and adjudication of the Complaint.
4. If the adaptable resolution process results in a resolution agreed to by the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances, the parties will sign the agreement, the agreement will be finally dispositive of the complaint, and the Complaint will be closed.

Before initiating an adaptable resolution process, the parties will be provided the following information in writing:

- The allegations;
- The requirements of the adaptable resolution process;

- That any party has the right to withdraw from the adaptable resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the adaptable resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an alternative resolution agreement, including notice that an alternative resolution agreement is binding only on the parties; and
- What information Davidson will maintain and whether and how Davidson could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

### **Adaptable Resolution Process**

The Title IX Coordinator will attempt to facilitate the parties' resolution to the complaint. The Title IX Coordinator will meet with each party to determine what information, resources, and support each party requires to participate in an adaptable resolution. Neither the College nor the other party may pressure the Complainant or Respondent into participating in adaptable resolution or a specific adaptable resolution format. Complainant and Respondent may have an Advisor present at any meetings related to the adaptable resolution process.

After both the Complainant and Respondent have met with the Title IX Coordinator to review the adaptable resolution process and discuss their options, the Complainant and Respondent may voluntarily consent to participate in adaptable resolution. The Complainant and Respondent must agree on the process option that best meets their needs and resolution goals. Parties may choose one or more of the following options:

1. **Shuttle Negotiation** - In a shuttle negotiation, the facilitator shuttles between parties to assist in negotiating an agreement. This process allows parties the space to discuss concerns, address conflict, and share their perspective without having to directly interact with each other.
2. **Facilitated Dialogue** - The purpose of a facilitated dialogue is to provide a space where parties can share their perspectives in structured manner with the assistance of a trained facilitator. Parties may engage in a facilitated dialogue with the intent of working towards an agreement, but this is not a required outcome.

### **Adaptable Resolution Agreement**

Measures that may be agreed to through a resolution process include:

- Training and education for the Respondent;
- Alterations to work schedules;
- Education plan for Respondent;
- Restriction from participation in certain College events;
- Respondent taking a leave of absence;



- Any other appropriate measures agreed to by the parties.

When the parties have determined the measures that will make up their resolution agreement, the Title IX Coordinator will review the agreement to determine whether the agreement is consistent with the College's Title IX Policy.

Once the agreement has been reviewed and approved by all parties, the agreement will be finalized, and the Complaint will be resolved. Once finalized, the Respondent is required to comply with the agreement and complete any actions required within the time period specified by the agreement. The complaint will be closed when the Respondent completes all actions stated within the agreement. If the Respondent does not complete all actions stated within the agreement, the original Complaint may move forward with investigation and adjudication of the Complaint. In addition, if the Respondent does not comply with restrictions stated in the agreement, the Respondent will be referred to Human Resources.

If no agreement is reached or the parties are unable to create an agreement that is consistent with the College's Sexual Misconduct policy, the Title IX Coordinator may refer the matter to investigation and adjudication of the Complaint.

## **B. Respondent Acceptance of Responsibility or Voluntary Resignation**

The Respondent may choose to accept responsibility for the alleged violation prior to or during the course of an investigation. If the Respondent chooses this option, the Respondent must submit a written statement accepting responsibility for the alleged violation and waiving all rights to an investigation, determination of responsibility by the Decisionmaker, and appeal on the ground of procedural error. In such cases, the case will be referred to the Chief Human Resources Officer, who will determine the next procedural steps for issuing disciplinary or responsive actions as to those violation(s), consistent with the policies in the Employee Guide and the Faculty Handbook. The Chief Human Resources Officer will notify Respondent and Complainant of the resolution in writing.

## **C. Investigation & Decision-Making Resolution**

### **Impermissible Evidence**

The following types of evidence, and questions seeking that evidence, are impermissible under both investigations and decision-making resolution processes. This means this information will not be accessed or considered, except by the College to determine whether one of the exceptions listed below applies. This information will not be disclosed or otherwise used, regardless of relevance:

- Evidence that is protected under privilege recognized by Federal or State law, unless the person whom the privilege of confidentiality is owed has voluntarily waived the privilege or confidentiality;
- Evidence provided to an employee designated by the College as exempt from internal reporting under this policy, unless the person



- who made the disclosure or otherwise provided evidence to that employee has voluntarily consented to re-disclosure;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized medical professional or paraprofessional in connection with the provision of treatment to the party of witness, unless the College obtains that party's or witness's voluntary, written consent for use in its resolution procedures; and
  - Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to alleged sex-based harassment. The fact of prior consensual sexual conduct between the parties does not by itself demonstrate or imply the Complainant's consent to other sexual activity or preclude a determination that Prohibited Conduct occurred.

## **Procedures for Sex Discrimination Complaint Investigation and Decision-Making**

The following describes the investigation and decision-making procedures where the Complaint alleges Sex Discrimination not involving a student as a party.

For reports involving a student party, *see Title IX Policy, Procedures and Information for Sexual Discrimination, Sexual Misconduct, Dating and Domestic Violence, and Stalking*

This procedure is for all matters of Prohibited Conduct being investigated and determined under this policy. The College will assign a trained investigator and Decisionmaker to conduct an adequate, reliable, and impartial investigation and determination in a reasonably prompt timeframe. Davidson reserves the right to utilize internal or external investigators and Decision-Makers.

All parties have the option to participate in the investigation, and each have the same rights during the resolution process including the right to an advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator's making any findings.

### **1. Notice of Investigation**

Prior to the start of an investigation, the Parties will be provided a written Notice of Investigation communicating the initiation of an investigation. Should additional allegations be brought forward, or information regarding location or date of the incident(s), a revised written Notice of Investigation shall be provided to all parties.

The Notice shall include, at a minimum:

1. Davidson's investigation procedures, including the applicable determination procedure that will be used in this investigation and resolution, and a link to the relevant policies;
2. Information about informal resolution and adaptable resolution, with a link to the full procedures.
3. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), a description of the facts alleged to constitute Prohibited Conduct, the type of Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
4. A statement that retaliation is prohibited;
5. The identity of the investigator(s);
6. The Notice will inform the parties that the investigator will establish and communicate, in writing, all investigation deadlines, including the final deadlines for submitting names of witnesses, evidence, and relevant questions to ask a party or witness. These deadlines may be extended by the Title IX Coordinator for good cause, and any changes will be provided, in writing, to the parties, along with the rationale for the revised deadline(s);
7. A statement that the Respondent is presumed not responsible for Prohibited Conduct until a determination is made at the conclusion of the resolution process. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decisionmaker;
8. A statement that the parties may have an advisor of their choice who may be a friend, parent, therapist, colleague, or attorney;
9. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigation report that accurately summarizes this evidence; and
10. A statement that Davidson's Honor Code prohibits knowingly making false statements or knowingly submitting false information during resolution procedures.

## **2. Individual Interviews**

The investigator will hold individual interviews with parties and witnesses to ask relevant and not otherwise impermissible questions and follow-up questions, including questions exploring credibility. Only the investigator and the party or witness may attend each individual interview, and a party may be accompanied by their advisor. Additional attendees may be permitted at the discretion of the Title IX

Coordinator in connection with an approved disability-related accommodation. All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings and may be subject to further Davidson discipline for failure to do so.

The individual interviews may be conducted with all participants physically present in the same geographic location, or, at the College's discretion, with all participants joining virtually through a video conferencing option.

Davidson may also adopt and apply other reasonable rules regarding decorum, provided they apply equally to the parties. The College will share expectations of decorum to be observed at all times in any meeting or proceeding under this policy. These expectations are applied equally to all parties and advisors. The College has the discretion to remove, with or without prior warning, from any meeting or proceeding, an involved party, witness, or advisor who does not comply with these expectations and any other applicable College rules.

### **3. Evidence Review**

At the conclusion of all fact-gathering, the investigator will provide each party and their advisor, if any, the opportunity to review all relevant and not otherwise impermissible evidence gathered.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation and to submit any additional relevant evidence, questions for parties or witnesses, or the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence, or names of witnesses. Given the sensitive nature of the information provided, Davidson will facilitate this review in a secure manner. None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.

The parties will have a minimum of 5 days to inspect and review the evidence and submit a written response in writing to the investigator. The College will provide access to copies of the parties' written responses to the investigator to all parties and their advisors, if any. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the investigator, the investigator shall then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the parties and their advisors. The parties shall have 5 days to provide a response to the newly-gathered evidence. No new evidence will be accepted as part of any response, except that the investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not

previously discoverable with the exercise of reasonable diligence.

The investigator will consider the parties' written responses before finalizing the investigation report.

#### **4. Investigation Report**

The investigator, who may also serve as the Decisionmaker, shall evaluate the relevant and not impermissible evidence and make factual determinations regarding each allegation, and also determine whether a violation of the policy occurred. The investigator may choose to place less or no weight upon statements by a party or witness who refused to respond to questions deemed relevant and not impermissible, or declined to participate. The investigator will not draw an inference about whether Prohibited Conduct occurred based solely on a party's or witness's refusal to respond to questions.

The investigator shall prepare a report which shall include:

- A description of the allegations of Prohibited Conduct;
- Information about the policies and procedures used to evaluate the allegations;
- A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, and methods used to gather other evidence;
- An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
- Findings of fact for each allegation, with rationale;
- Conclusions regarding which section of this policy or other Davidson policy, if any, the respondent has or has not violated, with rationale.

This report shall be provided to the Title IX Coordinator.

**Notice of Outcome** The Title IX Coordinator shall then provide the parties and their advisors, if any, with a written Notice of Outcome and a copy of the investigation report. The Notice of Outcome shall include:

- A statement of, and rationale for, any disciplinary sanctions the College imposed on the respondent
- A statement as to whether remedies will be provided
- The College's procedures and the permitted reasons for the parties to appeal, including identifying the Appeals Officer.

The determination regarding responsibility becomes final either on the date that Davidson provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

**Disciplinary Action** If the Respondent is an employee and the Chief Human Resources Officer confirms a policy violation occurred, the Chief Human Resources Officer will determine the next procedural steps for issuing disciplinary or responsive actions as to those violation(s), consistent with the policies in the Employee Guide and the Faculty Handbook.

**Stay of Disciplinary Action Pending Appeals** If the decision of the Decisionmaker is appealed disciplinary actions are stayed until the matters have been finally disposed of within these procedures.

## IX. APPEALS

**A. Grounds for Appeal** Either the Complainant or Respondent can appeal the dismissal of a Complaint or the finding of the Decisionmaker on the following grounds:

1. Procedural irregularity that had a material impact on the outcome of the complaint resolution process;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, investigator(s), or Decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

**B. Filing an Appeal** Appeals must be filed with the Title IX Coordinator within five (5) days of receiving the written Notice of Outcome. Appeals are made in writing and must state in detail the reasons for the appeal. Appeals shall not exceed five (5) pages.

If both parties file appeals, the Appeal Decisionmaker shall have the discretion to determine the process for resolving counter appeals, including the discretion to alter timelines.

Upon receipt of a written appeal, the Title IX Coordinator will forward the appeal and the record on appeal to the Appeal Decisionmaker. The record on appeal comprises all materials reviewed by the Decisionmaker, the record of the hearing and exhibits (if any), and the Notice of Outcome. The Title IX Coordinator shall provide an opportunity for Complainant and Respondent to access the appeal and the record on appeal separately in a private setting. The parties may not make copies or take photographs of the information.

**C. Appeal Procedures** Appeals are heard by the Appeal Decisionmaker. The Appeal Decisionmaker ordinarily will decide within five (5) days of receiving the record on appeal whether the appeal states sufficient grounds to be considered. If it does not, the Appeal Decisionmaker will dismiss the appeal.

If the Appeal Decisionmaker finds the appeal states sufficient grounds, the Appeal Decisionmaker may invite the Decisionmaker to respond in writing. When an appeal is requested by the Respondent, the Appeal Decisionmaker will invite the Complainant to respond in writing. When an appeal is requested by the Complainant, the Appeal Decisionmaker will invite the Respondent to respond in writing. Written responses shall not exceed five (5) pages. The Appeal Decisionmaker may, in the Appeal Decisionmaker's discretion, request additional documentation related to alleged procedural errors to accompany the statement of the Decisionmaker or a party. The Appeal Decisionmaker shall provide copies of the written responses and additional documentation, if any, to Title IX Coordinator who shall provide an opportunity for the Complainant and Respondent to access the information separately in a private setting. The parties may not make copies or take photographs of the information.

The Appeal Decisionmaker may, in the Appeal Decisionmaker's discretion, choose to call a conference with the Complainant, Respondent, and Decisionmaker before making a decision on appeal.

The Appeal Decisionmaker considers the appeal solely on the grounds stated in the filed appeal, the record on appeal, and the written responses, and additional documentation of procedural error. The Appeal Decisionmaker will not substitute their own judgement for that of the Decisionmaker.

**D. Actions Available on Appeal** The Appeal Decisionmaker may:

1. Uphold the determination of the Decisionmaker;
2. Remand the matter to the Decisionmaker where a procedural irregularity could be corrected by the Decisionmaker;
3. Remand the matter to the Decisionmaker where newly available information could be considered by the Decisionmaker; or
4. Remand the matter to a new Decisionmaker. This action will only be taken in extraordinary cases, when the Appeal Decisionmaker determines the matter would be best addressed by a newly appointed Decisionmaker.

**E. Notice of Appeal Outcome** The Appeal Decisionmaker ordinarily will provide a written notice of outcome within two (2) weeks of the decision to consider the appeal, and this decision is finally dispositive of the matter. The Notice of Outcome will be distributed to the Complainant, Respondent, Title IX Coordinator, and the Chief Human Resources Officer, with any redactions as required by federal law.

## X. RETALIATION

No person shall be subject to restraints, interference, coercion, or reprisal for action taken in good faith to seek advice concerning an alleged violation of this Policy, to initiate a report, to initiate the College's internal complaint resolution process, to be

a Complainant or Respondent in a complaint resolution process, to serve or refuse to serve as a witness, or representative in the investigation and resolution of a complaint. It is prohibited for any member of the College to intimidate, threaten, coerce, harass, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this Policy.

Prohibited acts of retaliation also include charges against an individual for policy violations that are outside of this Policy but arise out of the same facts or circumstances stated in a complaint or report of sex discrimination or sexual harassment when done for the purpose of interfering with any right or privilege secured by this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College will take appropriate steps to protect individuals who fear that they may be subjected to retaliation. Acts or threats of retaliation will be investigated and adjudicated accordingly and may result in disciplinary action.

## XI. ADDITIONAL POLICY & PROCEDURE INFORMATION

**A. Rights of Parties** Complainant and Respondent have the right to a fair, prompt, and impartial complaint resolution process, meaning a process that:

- Is completed within reasonably prompt time frames;
- Is conducted in a manner that is consistent with this Policy;
- Includes timely notice of meetings at which the parties may be present;
- Provides timely and equal access to information that will be used during the complaint resolution process
- Is conducted by individuals who do not have a conflict of interest or bias for or against the Complainant or Respondent;
- Provides equal opportunities to have the Advisor of the party's choice present during any meeting or proceeding related to complaint resolution procedure under this Policy, including meetings related to investigation of the Complaint;
- Provides written notification of the result of the complaint resolution process (subject to any redactions required by federal law);
- Bases the determination of responsibility solely on information presented as part of the complaint resolution process;
- Is not subject to acts or threats of retaliation for action taken in good faith as part of the complaint resolution process;



- Preserves privacy, to the extent possible and allowed by law.

**B. Confidentiality** All aspects of the complaint resolution process shall be confidential, including information provided as part of the process, and all persons participating in the complaint resolution process shall confirm in writing to maintain in confidence all matters presented in the process; provided, however:

1. The College is authorized to disclose information as set forth in this Policy;
2. Parties may disclose information to their Advisors and other personal support persons (e.g., family members, counselors or physicians, spiritual Advisors) and legal counsel; and
3. Confidentiality does not extend to information that an individual has a legal right to disclose.

**C. Disclosure of Information** The College will limit disclosure of personally identifiable information presented as part of the complaint resolution process to those individuals involved in the College's process and other legally required or permitted disclosures. Appropriate College officials (including, but not limited to, the Title IX Coordinator, the Dean of Students, the Chief Human Resources Officer, the VPAA/DoF, the Decisionmaker, the Investigators assigned to the complaint, the Appeal Decisionmaker, the President, and the General Counsel) shall have access to information presented as part of the complaint resolution process.

**D. Training** College officials and all others involved in the complaint resolution process shall receive annual training on this Policy including the definitions of prohibited conduct, the scope of the College's education programs and activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially.

**E. Delegation** Whenever an action may be or is required to be taken under this Policy by the Chief Human Resources Officer, the action may be taken by their designee. Whenever an action may be or is required to be taken under this Policy by the Title IX Coordinator, the action may be taken by the Title IX Coordinator's designee.