

## **Appendix A: Procedures for Responding to Reports of Prohibited Conduct Committed by Students and Employees**

These procedures are applicable to any report alleging a student or an employee committed Prohibited Conduct under *University Policy 1202: Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Violence* ("Policy"). These procedures apply to all reports of Prohibited Conduct received after August 14, 2020.

While these procedures apply to all reports received after August 14, 2020, in determining whether the alleged conduct constitute Prohibited Conduct, the University will use the version of Policy 1202 applicable **at the time of the alleged conduct.**

The Office of Compliance, Diversity and Ethics may alter this process at their sole discretion.

### **I. REPORTING PROHIBITED CONDUCT**

#### **A. Title IX Coordinators and Deputy Coordinators**

The University encourages anyone<sup>1</sup> who experiences or becomes aware of an incident of Prohibited Conduct involving a student or an employee to *immediately* report the incident to the University by contacting the University's Title IX Coordinator or a Deputy Title IX Coordinator by telephone, email, in person during regular office hours, or by completing the [Sexual and Interpersonal Misconduct Reporting Form](#).

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Online: [Sexual and Interpersonal Misconduct Reporting Form](#)

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<sup>1</sup> Pursuant to University policy, certain University employees, called "Non-Confidential Employees," are *required* to report to the Title IX Coordinator all information disclosed to them about an incident of Prohibited Conduct. See Policy 1202: *Sexual and Gender-Based Misconduct and Other Forms of Interpersonal Misconduct*.

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## **B. Law Enforcement**

A Complainant may choose to report conduct or make a Formal Complaint to the University to pursue resolution under these procedures and may also choose to make a report to law enforcement. A Complainant may pursue either or both of these options at the same time. A Complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these Procedures should contact law enforcement directly:

911 (for emergencies in Virginia)  
119 (for emergencies at Mason Korea)  
University Police (703) 993-2810 (for non-emergencies)  
Fairfax County Police (703) 691-2131 (for non-emergencies)  
City of Fairfax Police (703) 385-7924 (for non-emergencies)  
Manassas Police (703) 257-8000 (for non-emergencies)  
Arlington County Police (703) 558-2222 (for non-emergencies)

## **C. Confidential Resources**

The University also offers access to confidential resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a Formal Complaint to the University. University Policy 1202 Appendix B: [Resources and Reporting Guide for Students & Employees](#) identifies confidential resources, both at the University and in the Fairfax community.

## **II. PROCESS FOLLOWING RECEIPT OF REPORT**

### **A. Initial Assessment of Report**

Upon receipt of a report, the Title IX Coordinator<sup>2</sup> will conduct an initial assessment to determine if the report relates to conduct that is prohibited under Title IX and/or Policy 1202. If the report relates to conduct that is not addressed by Title IX and/or Policy 1202 (e.g., harassment based on something other than sex, dispute over a grade), the Title IX Coordinator shall refer the matter to the appropriate University office and notify the reporting party that the referral has been made.

### **B. Contacting Reporting Party (and Complainant, if different and known)**

If the Title IX Coordinator determines that the report relates to conduct prohibited by Title IX and/or Policy 1202, the Title IX Coordinator will contact the individual making the report of Prohibited Conduct (if known) and the Complainant (if known and different than the person making the report) within two business days.<sup>3</sup> The Title IX Coordinator will invite the Complainant to an initial meeting and provide to the Complainant information about this policy, the process for filing a Formal Complaint, the availability of supportive measures and that supportive measures are available regardless of whether the Complainant files a Formal Complaint, and the ability to have an advisor attend all meetings and hearings.

### **C. Title IX Review Committee**

In the event that the report relates to an allegation of sexual assault, the Title IX Coordinator will also notify the Title IX Review Committee. The Title IX Review Committee will convene (in person, by telephone, or by e-mail) within 72 hours after receiving a reported incident of sexual assault. The Title IX Review Committee shall include, at a minimum: (1) the Title IX Coordinator, (2) a representative of the University Police Department (the "UPD Representative"), and (3) a representative from the Office of Student Conduct. If the report involves an employee, the Department of Human Resources will participate in the evaluation of the report with the Title IX Review Committee.

The Title IX Review Committee operates pursuant to Va. Code §23.1-806 ("Reporting acts of sexual violence) and has access, under Virginia law, to certain otherwise confidential information, including law enforcement records, criminal history record information, as provided in Va. Code §19.2-389 and §19.2-389.1; health records, as provided in Va. Code §32.1-127.1:03; University disciplinary, academic and/or personnel records; and any other information or evidence known to the University or to law enforcement. The Title IX Review Committee may seek additional information about the reported incident through any other legally permissible means.

The Title IX Review Committee will reconvene as necessary to continue to evaluate whether any new or additional information received triggers any further obligation(s) under the Cleary Act or with respect to any child protective service agency, and will direct the Title IX Coordinator to take such further actions, as necessary.

Pursuant to the Virginia Reporting Statute, the Title IX Review Committee is *required* to disclose information about certain allegations of Prohibited Conduct to law enforcement.

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<sup>2</sup> The Title IX Coordinator may delegate any responsibility of the Title IX Coordinator to a designee. In the case that the Title IX Coordinator has a conflict of interest in a particular case, another university employee will be appointed to serve as the interim Title IX Coordinator for that case.

<sup>3</sup> "Business day" means days on which the University is open and excludes all weekends, holidays, and any other University closures.

#### **D. Safety Assessment**

The Title IX Coordinator (in consultation with the Title IX Review Committee and/or other University officials, as appropriate) will make a determination of whether based on reported information and any other available information the Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment that justifies placing the Respondent on an emergency temporary suspension, administrative leave, or other appropriate measures (e.g., temporary removal from housing) pending the outcome of the adjudication. The Title IX Coordinator will make this determination based upon an individualized assessment of the totality of the known circumstances, and will be guided by a consideration of the following factors (the “Risk Factors”):

- Whether the Respondent has prior arrests, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior;
- Whether the Respondent has a history of failing to comply with any University No-Contact Directive, other University support measures, and/or any judicial protective order;
- Whether the Respondent has threatened to commit violence or any form of Prohibited Conduct;
- Whether the Prohibited Conduct involved multiple Respondents;
- Whether the Prohibited Conduct involved the use of weapons or physical violence. “Physical violence” means exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking and brandishing or using any weapon;
- Whether the report reveals a pattern of Prohibited Conduct (e.g., by the Respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);
- Whether the Complainant is (or was at the time of the Prohibited Conduct) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

The Title IX Coordinator may at any point reevaluate whether the Respondent should be placed on emergency suspension or administrative leave based on new information.

If the Title IX Coordinator determines that an emergency suspension or administrative leave is necessary, the Title IX Coordinator will work with the appropriate University Office (University Life for students, Human Resources for employees) to put in place the suspension or leave. The Respondent will be notified of the action and have the opportunity to appeal the decision per the procedures applicable to the Respondent based on their relationship to the University. The notice provided will inform the Respondent of how to appeal the decision.

#### **E. Initial Meeting with Complainant**

If requested by the Complainant, Title IX Coordinator will meet with the Complainant for an initial meeting. At the initial meeting, the Title IX Coordinator will:

- Review University and community resources, the right to seek appropriate and available supportive measures, and how to request those resources and measures;
- Discuss which supportive measures the Complainant wishes to have put in place;
- Assess safety and offer supportive measures as determined appropriate by the Title IX

- Coordinator;
- Explain the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
  - Explain the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
  - Review the right to seek formal or informal resolution under these Procedures and explain the procedures for a formal and informal resolution;
  - Ascertain the Complainant's expressed preference (if the Complainant has, at the time of the initial meeting, a preference) for pursuing a Formal Complaint or an informal resolution, or neither; and discuss any concerns or barriers to participating in any University investigation and resolution under these Procedures;
  - Explain the University's prohibition against Retaliation and that the University will take prompt action in response to any act of Retaliation;
  - Gather any information about the Prohibited Conduct that the Title IX Coordinator believes is necessary;
  - 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;

If the Complainant does not wish to meet with the Title IX Coordinator, the Title IX Coordinator shall document that the Complainant declined the invitation for an initial meeting.

#### **F. Advisors**

Throughout the investigation and resolution process, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation and resolution of a report under these Procedures. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings (except as provided below during cross examination during the hearing process). The University reserves the right to remove an advisor who does not comply with this restriction or who is otherwise obstructing the meeting or hearing. Additionally, the University reserves the right to bar any advisor who repeatedly violates this restriction or obstructs meetings or hearings from serving as an advisor.

#### **G. Supportive Measures**

At any point in this process, a Complainant or Respondent may request supportive measures from the Title IX Coordinator. The Title IX Coordinator is responsible for providing Supportive Measures, as deemed appropriate by the Title IX Coordinator. The University will offer reasonable and appropriate supportive measures to protect continued access to University employment or education programs and activities. Supportive measures may be both remedial (designed to address safety and well-being and continued access to educational opportunities) or protective. Supportive measures may be temporary or permanent and may include, but are not limited to, no-contact directives, residence modifications, academic modifications and support, work schedule modifications, interim disciplinary suspension, interim suspension from employment, and pre-disciplinary leave (with or without pay).

**Supportive measures are available regardless of whether a Complainant pursues a Formal Complaint or investigation under this policy.** The University will maintain the confidentiality of any supportive measures

provided to the extent practicable and will promptly address any violation of the supportive measures. The Title IX Coordinator has the discretion to impose and/or modify any supportive measure based on all available information. The Title IX Coordinator is available to meet with Complainants or Respondents to address any concerns about the provision of supportive measures

#### **H. Process When Complainant Does Not Want to Pursue a Formal Process**

If the Complainant does not wish to pursue the formal process, the Complainant can request that the University pursue an informal process or that the University take no action with regard to the reported Prohibited Conduct.

If the Complainant requests at any point (including during a formal process) to pursue an informal resolution process and the Title IX Coordinator determines that an informal resolution process is appropriate, the Title IX Coordinator will follow the procedures provided below for the informal resolution process, see Section V. In order for the University to offer an informal process, the Complainant must first file a Formal Complaint, as described in Section III.A., and then request that it be resolved using an informal process.

If the Complaint requests that no action be taken and the Title IX Coordinator determines that it is not necessary to proceed with a formal process, the Title IX Coordinator may still provide supportive measures to the Complainant and take any other appropriate steps. A Complainant may at any time change their mind and request that the University commence either a formal or informal process.

The University will, where possible respect the wishes of the Complainant, however in certain circumstances it may be necessary for the Title IX Coordinator to initiate a formal process by signing a Formal Complaint. The Title IX Coordinator will only sign a Formal Complaint against the wishes of the Complainant where the Title IX Coordinator determines that it is necessary to do so either to (1) protect the health and safety of the University community or (2) to address systemic, ongoing, or reoccurring Prohibited Conduct.

Where the Title IX Coordinator has determined that the University must proceed with a formal process despite a Complainant's request to the contrary, the Title IX Coordinator will make reasonable efforts to protect the privacy of the Complainant. However, actions that may be required as part of the University's investigation will involve speaking with the Respondent and others who may have relevant information, in which case the Complainant's identity may have to be disclosed. In such cases, the Title IX Coordinator will notify the Complainant that the University intends to proceed with an investigation.

### **III. FORMAL PROCESS - INVESTIGATION**

#### **A. Filing a Formal Complaint**

In order to request that the University investigate and adjudicate a complaint of Prohibited Conduct, a Complainant must file Formal Complaint with the Title IX Coordinator. A Formal Complaint can be filed by mail, email, or in person with the Title IX Coordinator:

Angela Nastase  
Title IX Coordinator  
Compliance, Diversity and Ethics  
Fairfax Campus

Aquia Room 373  
Phone: (703) 993-8730  
Email: [titleix@gmu.edu](mailto:titleix@gmu.edu)

A Formal Complaint must contain the Complainant's physical or digital signature or must otherwise demonstrate that it was filed by the Complainant. An email sent from a student or employee's official University email will be considered sufficient to demonstrate that it was filed by that individual.

The Formal Complaint must (1) provide a description of the alleged Prohibited Conduct including the date(s), time(s), and location(s), if known, of the alleged Prohibited Conduct, (2) name the Respondent accused of the Prohibited Conduct, and (3) request that the University initiate a formal process to investigate and adjudicate the allegations of Prohibited Conduct.

In the event that the Title IX Coordinator determines that the University should formally investigate and adjudicate an allegation of Prohibited Conduct notwithstanding the Complainants decision not to file a Formal Complaint, the Title IX Coordinator may sign the Formal Complaint. In such cases, the Title IX Coordinator is not a complainant or otherwise a party.

In the event that the Respondent named in a Formal Complaint is likely to graduate prior to the completion of the Formal Process, the Title IX Coordinator may work with the appropriate University office to place a graduation hold on the Respondent's account.

#### **B. Assignment of Investigator**

Within two business days or receipt of a Formal Complaint, (unless the Title IX Coordinator determines that the Formal Complaint must be dismissed, see Section III.F), the Title IX Coordinator shall assign a Title IX Investigator to conduct the investigation of the Prohibited Conduct alleged in the Formal Complaint. The Title IX investigator may be an investigator with the Office of Compliance, Diversity, and Ethics or any outside investigator.

#### **C. Notice of Investigation**

Within three business days of receipt of a Formal Complaint (unless the Title IX Coordinator determines that the Formal Complaint must be dismissed, see Section III.F), the Title IX Coordinator shall send the Complainant and Respondent (the "Parties") a Notice of Investigation. The Notice of Investigation will include:

- A description of the alleged Prohibited Conduct, including the identities of the individuals involved, if known, the conduct allegedly constituting Prohibited Conduct, and the date(s) and location(s) of the alleged Prohibited Conduct, if known.
- A copy of the applicable Policy 1202
- A copy of these procedures
- A statement of the alleged violations of Policy 1202 which will be investigated and adjudicated
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process
- A statement that determinations of responsibility are made using the preponderance of the evidence standard
- A statement that parties are not required to participate in the investigation

- A statement that Policy 1202 prohibits knowingly making false statements or knowingly submitting false information during the grievance process
- A statement that the parties may have an advisor of their choice, who may be but is not required to be an attorney, at all meetings and hearings related to the investigation and hearing and that if the Party needs assistance finding an advisor to contact the Title IX Coordinator
- A statement that the parties may inspect and review evidence collected during the investigation prior to the preparation of the Final Investigation Report
- Information regarding requesting accommodations for a disability in the context of the investigation
- A statement regarding the availability of supportive measures
- The name of the assigned investigator and instructions for how to notify the Title IX Coordinator if a party has a prior relationship with the assigned investigator or believes that the assigned investigator has a bias against the party
- An instruction to preserve and not destroy any evidence directly related to the allegations
- An invitation to meet with the Title IX Coordinator to discuss the formal process and/or supportive measures

If, in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the original Notice of Investigation, the Title IX Coordinator will provide notice of the additional allegations to the Parties.

After the Notice of Investigation is sent to the Parties and at any point during the formal process, either Party may ask to meet with the Title IX Coordinator to discuss the formal process and/or supportive measures that may be available.

#### **D. Timeframe for Completion of Investigation; Extension for Good Cause.**

The University will make every effort to resolve all formal complaints of Prohibited Conduct within one hundred and twenty days (120) business days after the Notice of Investigation is sent. This timeframe 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 discretion of the Title IX Coordinator. The Title IX Coordinator, Investigator or Hearing Coordinator will notify the parties of any significant delays.

At the request of law enforcement, the Title IX Coordinator may delay or pause the University investigation temporarily while an external law enforcement agency is gathering evidence. The investigation will promptly resume when the University is notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

#### **E. Challenging Investigator**

Either Party may submit a request to the Title IX Coordinator to change the assigned investigator because of a prior relationship with a Party or because the Party believes that the Investigator is biased. The Title IX Coordinator will determine whether to replace an investigator in response to a request from a Party. In no event will the gender of the Investigator alone be considered a valid reason to claim bias by either the

Complainant or the Respondent

#### **F. Dismissal of Formal Complaint**

In the following situations the Title IX Coordinator is required by Department of Education's Title IX Regulations to dismiss allegations of Prohibited Conduct in a Formal Complaint under Title IX:

- 1) At the time of filing a formal complaint, the Complainant was not participating in or attempting to participate in the education program or activity of the University.
- 2) The alleged Prohibited Conduct occurred outside of the United States.
- 3) The alleged Prohibited Conduct did not occur in locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the Prohibited Conduct occurred or in any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.
- 4) The alleged Prohibited Conduct even if proved true would not constitute sexual harassment as defined in the Title IX regulations (see Section A of the definition of Prohibited Conduct in Policy 1202).

**Such a dismissal does not constitute a dismissal of the Formal Complaint as to violations of Policy 1202.<sup>4</sup> If the Title IX Coordinator determines that a Formal Complaint must be dismissed under Title IX but can proceed as to violations of Policy 1202, the formal process will continue as to the violations of Policy 1202.**

The Title IX Coordinator may dismiss allegations of Prohibited Conduct in a Formal Complaint in the following situations:

- 1) The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein.
- 2) The Respondent is no longer enrolled at or employed by the University.<sup>5</sup>
- 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the Title IX Coordinator dismisses a Formal Complaint, the Title IX Coordinator will send a notification of the dismissal to both Parties.<sup>6</sup> The Notification shall explain the reason for the dismissal and provide information about how to appeal the dismissal.

Either Party may appeal a dismissal. Any appeal must be submitted in writing within five business days of the notification being sent. The appeal will be heard by the Vice-President of Compliance, Diversity, and Ethics ("CDE"). The only grounds to appeal a dismissal are:

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<sup>4</sup> Policy 1202's scope is broader than the Title IX Regulations (e.g., applies to conduct outside of the US) and prohibits conduct beyond the definition of sexual harassment in the Title IX Regulations.

<sup>5</sup> If a student withdraws from the University during a formal process, the University is required by Virginia law to place a notation on the student's transcript stating that the student withdrew while under investigation, see Section IV.O.

<sup>6</sup> In the event that the Title IX Coordinator only dismisses a Formal Complaint under Title IX but continues the investigation under Policy 1202, the notification shall make clear that the investigation will continue.

- Procedural irregularity that affected the decision to dismiss the Formal Complaint.
- The discovery of new evidence that was not reasonably available at the time the determination to dismiss was made that could affect the outcome of the matter.
- The Title IX Coordinator, Investigator(s), or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or either Party that affected the decision to dismiss the Formal Complaint.

The decision of the Vice-President of CDE shall be final.

### **G. Other Forms of Discriminatory and/or Harassing Conduct**

If a Formal Complaint also implicates other forms of discriminatory and/or harassing conduct prohibited by University Policy 1201: Non-Discrimination Policy and/or any other violation(s) of the University's Code of Student Conduct or University Policy, the Title IX Coordinator will refer such allegations to the appropriate University office.

### **H. Acceptance of Responsibility**

At any point during the investigation, the Respondent may admit responsibility for some or all of the alleged Prohibited Conduct by notifying the Title IX Coordinator or the Investigator. If the Respondent admits responsibility for all alleged conduct, the Title IX Coordinator will discuss with the Parties the option for changing to an informal process to resolve the Formal Complaint. Both Parties must agree to change to an informal process. If both Parties do not agree, the formal process will continue.

### **I. Investigation**

The investigation is a neutral fact-gathering process. There is a presumption of non-responsibility for the alleged Prohibited Conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Neither party is required to participate in the investigation nor any form of resolution under these Procedures. The Investigator will not draw any adverse inference from a decision by either of the parties not to participate.

At the beginning of the investigation, the Investigator (or designee) will contact the parties to request that they provide:

- Dates and times when the Party is available for an interview with the Investigator
- A list of witnesses the Party wants the Investigator to interview and a brief explanation of the evidence the Party expects the witness to provide
- All evidence the Party wants the Investigator to consider including any electronic or other records of communications between the Parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party)
- Any questions that the Party wants the Investigator to ask any other Party or witness

At any point during the investigation, a Party may provide additional evidence, propose witnesses, or propose questions to the Investigator.

The Investigator will attempt to interview each Party at least once and may request additional interviews

as necessary. Prior to any interview the Investigator will provide the Party with a written notice stating the date, time, location, participants, and purpose of the interview. This notice will be provided with sufficient time for the Party to prepare for the interview. The Title IX Coordinator and/or Investigator will provide updates on the status of the investigation to both Parties.

The Investigator has the discretion to decide which witnesses to interview (including witnesses not identified by either Party) and what questions to ask the Parties and any witnesses. The Investigator will only interview witnesses who have information that is directly related to the alleged Prohibited Conduct.

The Investigator will document all interviews in an interview memo which shall be considered the record of the interview.

The Investigator may request additional evidence from any Party, witness, or other third-party, except that the Investigator cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the Investigator obtains that Party's voluntary, written consent to do so.

The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means.

The Investigator may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

The Investigator may contact any law enforcement agency that is conducting its own investigation to inform that agency that a University investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

#### **J. Review of Evidence by Parties**

When the Investigator has completed the collection of evidence for the investigation, the Investigator will notify the Parties that the collection of evidence has been completed and that they will have an opportunity to review all evidence and witness interview memos that are directly related to the allegations in the Formal Complaint.

Prior to sending the evidence to the Parties and any advisors, the Parties and advisors must sign a non-disclosure agreement provided by the University. If either Party has an advisor, the Parties must also sign a FERPA consent form authorizing the release of student records related to the investigation to any advisor.

After receipt of the signed non-disclosure agreements from all Parties and advisors, the Investigator will send to each Party and advisor copies of all evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the Investigator does not intend to rely in preparing the Final Investigation Report and inculpatory (evidence supporting that the Respondent is responsible) or exculpatory (evidence supporting that the Respondent is not responsible) evidence whether obtained from a Party or other source. The Investigator will redact all personally identifying information except if redaction of the information would destroy the meaning of the

document.

The Parties will have ten days from when the evidence is sent to them to submit a written response to the Investigator. The Investigator will consider any written responses in preparing the Final Investigation Report.

#### **K. Final Investigation Report**

After reviewing any written responses submitted by the Parties, the Investigator will create an investigative report that fairly summarizes the facts and all relevant evidence. The Investigator will not make a determination as to credibility or responsibility.

The Investigator has the discretion to determine the relevance of any evidence. Information is relevant if it makes a fact in question more or less likely to be true. Evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent

The Title IX Coordinator will review the investigation report prepared by the Investigator and may refer the investigation report back to the Investigator for further investigation if necessary.<sup>7</sup> When the Title IX Coordinator determines that the investigation is complete, the Investigator shall finalize the report and submit to the Title IX Coordinator a Final Investigation Report.

### **IV. FORMAL PROCESS - HEARING**

#### **A. Transmission of Case for Hearing**

After the Investigator has submitted the Final Investigation Report, the Title IX Coordinator shall send the Final Investigation Report and all evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint (i.e., all evidence that was provided to the Parties during the review period provided for in Section III.J) to the Hearing Coordinator.<sup>8</sup>

Title IX Coordinator shall also send a Notice of Hearing, a copy of these Procedures, and the Final Investigation Report to the Parties at or around the same time that the Final Investigation Report is sent to the Hearing Coordinator.

The Notice of Hearing shall state that the case has been sent to the Hearing Coordinator and that the party should contact the Hearing Coordinator within five business days to schedule a Pre-Hearing Meeting.

The Notice of Hearing will also inform the Parties that, per the Title IX Regulations, no hearing can be scheduled less than ten days after the Final Investigation Report is sent to the Parties and provide the first date on which a hearing can be held. The Notice will inform the Parties they must contact the Hearing Coordinator within five business days and provide the Hearing Coordinator with dates and times over the

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<sup>7</sup> If further evidence is collected, the Parties and Advisors will again have ten days to review and provide written comments on any additional evidence collected.

<sup>8</sup> The Hearing Coordinator may be a representative from Compliance Diversity and Ethics, the Office of Student Conduct (in student matters), or the Department of Human Resources Management (in employee matters).

two weeks following the date provided when the Party, the Party's advisor (if any), and any witnesses the Party intends to present at the hearing are available.

The Notice of Hearing shall also include a list of potential hearing officers who may be selected for the matter and inform the Party that they have five business days to notify the Hearing Coordinator if there are any potential hearing officers with whom they have a prior relationship or any that they have a reason to believe has a bias against the Party.

The Notice of Hearing will inform the Parties that they may, but are not required, to provide a written response to the Final Investigation Report to the Hearing Coordinator. Any such written response will be provided to the Hearing Officer assigned to the case.

The Notice of Hearing will provide the Party with information regarding requesting accommodations for a disability in the context of the hearing process.

The Notice of Hearing will explain options for conducting the hearing remotely (e.g., via videoconferencing platform) or using separate rooms and how a Party can express a desire to use one of these options for the hearing.

The Notice of Hearing will also provide information about advisors available through the University and inform the Party that if they do not have an advisor at the hearing, the University will provide someone to ask questions on behalf of the party at the hearing, as described below in Section IV.H.

## **B. Advisors**

As in the investigation phase, all Parties may have one advisor of their choosing present (in person or via phone/videoconference) at all meetings and hearings during the hearing phase. A Party may choose to use a different advisor during the investigation and hearing phase. The role of the advisor is limited in that a student may confer with their advisor, and the advisor is not permitted to speak on behalf of the student (except as provided below during cross examination). The University reserves the right to remove an advisor who does not comply with this restriction or who is otherwise obstructing the meeting or hearing. Additionally, the University reserves the right to bar any advisor who repeatedly violates this restriction or obstructs meetings or hearings from serving as an advisor.

## **C. Pre-Hearing Meeting**

The Hearing Coordinator shall contact each Party separately to inquire whether the party wishes to have a Pre-Hearing Meeting. Parties are not required to participate in a Pre-Hearing Meeting. In the event that a Party does not respond to the invitation for a Pre-Hearing Meeting within five business days, it will be presumed that the Party does not wish to have a Pre-Hearing Meeting.

The Pre-Hearing Meetings will be conducted by the Hearing Coordinator (or Designee). The facts of a particular case will not be discussed during the Pre-Hearing Meeting. The following will occur at the Pre-Hearing Meeting:

- Provide the Party with a description of the hearing process and answer any questions related to the hearing process.
- Review the dates and times when the Party, the Party's advisor (if any), and any witnesses the Party intends to present at the hearing are available.

- Explain options for conducting the hearing remotely (via videoconferencing platform) or using separate rooms using video technology and obtain the Party's preference on these options.
- The Hearing Coordinator will provide the Party with information regarding requesting accommodations for a disability in the context of the hearing process.
- If the Party does not have an advisor, the Hearing Coordinator will share resources about advisors and inform the Party that if they do not have an advisor at the hearing, the University will provide someone to ask questions on behalf of the party at the hearing, as described below in Section IV.H.

#### **D. Selection of Hearing Officer**

The Hearing Coordinator shall select the Hearing Officer. In selecting the Hearing Officer, the Hearing Coordinator shall consider the availability (e.g., availability at same times as the Parties) and experience of the potential hearing officers.

The Hearing Coordinator shall not select a Hearing Officer who has a prior relationship with either of the Parties or whom either of the Party has asserted has a bias against the Party, unless the Hearing Coordinator determines that the basis for the Party to assert that the Hearing Officer has a bias against the Party is not valid. In no event will the gender of a hearing officer alone be considered a valid reason to claim bias by either the Complainant or the Respondent

Once the Hearing Officer is selected, the Hearing Coordinator shall send the Hearing Officer the Final Investigation Report and all evidence sent by the Title IX Coordinator to the Hearing Coordinator with the Final Investigation Report.

#### **E. Scheduling of Hearing**

The Hearing Coordinator shall use the availability information provided by the Parties to schedule the hearing. If a Party does not provide their availability within five days from when the Notice of Hearing was sent to the Parties, the Hearing Coordinator shall proceed to schedule the hearing. The Hearing Coordinator shall also consider the schedule of the Hearing Officer and Investigator. The hearing must be scheduled at the earliest possible date and time based on the availability of the Parties, Hearing Officer, and Investigator that is at least ten days after the Final Investigation Report was sent to the Parties.

If it is impossible to schedule the hearing based on the availability provided by the Parties, the Hearing Coordinator shall work with the Parties to find a mutually agreeable time for the hearing. In the event that the Hearing Coordinator determines that a Party is not acting in good faith in providing availability, the Hearing Coordinator may schedule the hearing without regard for that Party's availability.

Once the Hearing Coordinator has determined a date and time for the hearing, it shall send a Notice of Date and Time of Hearing to both Parties. This Notice shall also state the name of the Hearing Officer and provide any additional information regarding the format for the hearing (e.g., conducted via videoconferencing, conducted in person using separate rooms). This Notice must be sent at least five business days prior to the date of the hearing.

Once this Notice is sent to the Parties, the time and date of the hearing will not be changed except at the discretion of the Hearing Coordinator in cases of an emergency. It is the responsibility of the Parties to inform their advisors and witnesses of the time and date of the hearing and make arrangements for them to be present at the hearing.

## **F. Evidence Allowed at Hearing**

The only evidence (including witnesses) that will be allowed to be presented or referenced at the hearing are those that were provided to the Investigator during the investigation and which are directly related to the allegations in the Formal Complaint (i.e., the evidence shared with the Parties during the review period described above), even if that evidence was not relied on by the Investigator.

The only exception to this rule is in the case of evidence that was unknown or unavailable to the Party at the time of the investigation,<sup>9</sup> is now known or available to the Party, and is directly related to the allegations in the Formal Complaint. If a Party wishes to present such evidence at the hearing, the Party must contact the Hearing Coordinator at least three days before the hearing and provide the evidence and an explanation of why the evidence was unknown or unavailable to the Party at the time of the investigation. The Hearing Coordinator shall consult with the Title IX Coordinator and determine whether the evidence is directly related to the allegations in the Formal Complaint and whether the evidence was unknown or unavailable to the Party at the time of the investigation. If it is determined that the evidence meets both criteria, the case shall be referred back to the Investigator to consider the new evidence and the new evidence shall also be provided to the other Party. If necessary the Hearing Coordinator may delay the hearing to allow the Investigator and/or Parties time to review and consider the new evidence.

## **G. Other Pre-Hearing Matters**

If a Party does not intend to have an advisor present at the hearing or if the Party's advisor will not be asking questions for the Party, the Party is encouraged to notify the Hearing Coordinator at least three days prior to the hearing so that the Hearing Coordinator can arrange for someone to ask questions on the Party's behalf at the hearing.

The Parties are encouraged but not required to send the Hearing Coordinator any questions that they expect to ask of the other Party or their witnesses in advance of the hearing. The Hearing Coordinator will provide these questions to the Hearing Officer to review in order to expedite determinations of relevance during the hearing. A Party is not limited or restricted to only asking questions that are provided in advance.

## **H. The Hearing**

The Hearing Officer will use a procedural outline to facilitate the hearing. The Hearing Coordinator or Designee shall be present at the hearing to provide logistical support, facilitate the hearing, and ensure that the hearing complies with these procedures.

The hearing will be recorded. The recording will be stored and maintained by the Title IX Office. Upon request, either Party may be provided access to review the recording. Additional recordings or recording devices are strictly prohibited.

At the hearing, the Complainant and the Respondent meet with the Hearing Officer simultaneously. As explained above, prior to the hearing either Party may request to be physically located outside the

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<sup>9</sup> Evidence that a Party was aware of or had access to but chose not to share with the Investigator for any reason does not meet this requirement.

presence of the other individual and participate by videoconference.<sup>10</sup> This request must be provided to the Hearing Coordinator no later than three business days before the scheduled date of the hearing.

At the outset of the hearing, the Respondent will be given the opportunity to admit responsibility for any of the alleged violations.

Both Parties will be offered an opportunity to provide an opening statement that is no longer than five minutes and a closing statement that is no longer than eight minutes.

The Parties may refer to and present any (and only) evidence that was provided to the Investigator during the Investigation and which is directly related to the allegations in the Formal Complaint (i.e., the evidence shared with the Parties during the review period described above in Section III.J), even if that evidence was not relied on by the Investigator. The Hearing Officer shall determine the relevance of any evidence presented and shall only consider when making a determination evidence that is determined to be relevant. Evidence will be considered relevant if it makes a fact in question more or less likely to be true.

The Investigator will be available at the time of the hearing to answer any clarify questions regarding information contained in the Final Investigation Report. The Hearing Officer may ask questions of the Investigator. Questions from the Parties for the Investigator shall be submitted in writing to the Hearing Officer.

The Hearing Officer may ask questions of the Parties and any witnesses.

Witnesses will not be allowed to offer direct oral testimony during the hearing. The witness statement contained in the Final Investigation Report will be considered the witness's testimony. The Party presenting the witness will not be allowed to ask questions of the witness. However, in order for the Hearing Officer to rely on the statement of a witness in the Final Investigation Report, the witness must be present at the hearing and submit to questioning by the advisor of the Party not offering the witness (as described below). If a witness does not submit to such questioning the Hearing Officer cannot rely on that witness's statements in reaching a determination.

The advisor for each Party will be given the opportunity to ask questions of the other Party and any witnesses on which the other Party would like the Hearing Officer to rely in making a determination.<sup>11</sup> The Parties themselves may not ask any questions, although they may provide questions to their advisors to ask. Only relevant (defined as something that makes a fact in question more or less likely to be true) questions may be asked. Additionally, duplicative questions that are identical to previously asked questions are not allowed. Prior to a Party or witness answering a question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Hearing Officer may allow a Party or Party's Advisor to explain why a question is or is not relevant, but is not required to do so.

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<sup>10</sup> If the hearing is conducted remotely or using separate rooms, video technology will be used so that the parties and Hearing Officer can simultaneously see any individual answering questions during the hearing (as required by the Title IX Regulations).

<sup>11</sup> This is the sole exception to the rule that advisors may not speak during meetings or hearings.

While Parties are not required to attend the hearing, if a Party or witness does not submit to questioning by the advisor for the other Party at the hearing, the Hearing Officer must not and cannot rely on any statement(s) of that Party or witness (made at any time, including during the investigation or contained in the Final Investigation Report) in reaching a determination regarding responsibility; provided, however, that the Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer questions.

If a Party does not have an advisor at the hearing (or if the Party's advisor is removed from the hearing for violating the rules related to advisors) or if the Party's advisor is unable or unwilling to ask questions on behalf of the Party, the University will provide someone who will ask questions of the other Party and their witnesses on behalf of the Party (the "Questioner"). This Questioner will not provide advice to the Party and will not formulate questions to be asked. The Party must give the Questioner the questions that the Party wants the Questioner to ask, and the Questioner's sole responsibility is to ask the questions provided. The Questioner will only be present during the questioning portion of the hearing. If it is necessary to provide a Questioner at the hearing to a Party, a document explaining the role of the provided Questioner will be provided to the Party.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

After the Parties have presented their evidence, all Parties and witnesses have been questioned, and the Parties have had an opportunity to give a closing statement, the Hearing Officer shall close the hearing unless the Hearing Officer determines that there is additional evidence needed to reach a determination. In that case, the Hearing Officer may refer the case back to the Investigator to collect additional information or evidence, provide it to both Parties, and update the Final Investigation Report, as necessary. The Hearing Officer may continue the hearing to a future date to allow for this additional inquiry.

#### **I. Impact Statements**

Within three business days of the conclusion of the hearing, both Parties may (but are not required to) submit a written statement to the Hearing Coordinator making a recommendation for the sanctions that should be imposed if the Respondent is found responsible for the alleged conduct.

#### **J. Determination**

The Hearing Officer will make a determination of responsibility (responsible or not responsible) for the alleged violations of Policy 1202 stated in the Formal Complaint. The Hearing Officer will apply a preponderance of evidence standard (more likely than not) in determining responsibility for the alleged violation(s). In reaching the determination of responsibility, the Hearing Officer may not make credibility determinations based on a Parties' status as a complainant, respondent, or witness.

Within five business days of the conclusion of the hearing, the Hearing Officer shall notify the Hearing Coordinator of the determination of responsibility.

If the Hearing Officer determines that the Respondent is not responsible, the Hearing Officer shall prepare a Notice of Determination.

If the Hearing Officer determines that the Respondent is responsible:

In cases where the Respondent is a student, the Director of Student Conduct or designee will consult with the Title IX Coordinator regarding what sanctions to impose. The final determination as to what sanctions to impose is made by the Director of Student Conduct or designee. The sanctions will be communicated to the Hearing Officer so that the Hearing Officer can prepare a Notice of Determination.

In cases where the Respondent is an employee, a representative of Human Resources & Payroll shall consult with the Title IX Coordinator and the employee's supervisor to determine what sanctions to impose. The final determination as to sanctions rests with the employee's supervisor. The sanctions will be communicated to the Hearing Officer so that the Hearing Officer can prepare a Notice of Determination.

#### **K. Sanctions**

Potential sanctions for violating Policy 1202 range from a warning to expulsion or termination, and may include but are not limited to: probationary periods, required educational programs, limiting or removing duties, responsibilities, or rights, demotion, suspension, placement on unpaid leave, trespass from campus or a portion thereof, referral for termination proceedings (in the case of some employees), termination, expulsion, and cancelation of degree (for graduates).<sup>12</sup>

Factors to be considered in determining sanctions include, but are not limited to:

- The severity, persistence, or pervasiveness of the violation;
- The nature or violence of the violation;
- The perceived impact of the violation on the complainant;
- The perceived impact on the University community;
- The prior disciplinary record of the respondent;
- The maintenance of a safe, nondiscriminatory environment that is conducive to learning; and
- Any other mitigating or compelling factors.

#### **L. Notice of Determination**

The Hearing Officer must prepare a Notice of Determination. The Notice of Determination must contain the following:

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<sup>12</sup> A full list and description of sanctions applicable to students can be found in the Code of Student Conduct, <http://studentconduct.gmu.edu/university-policies/code-of-student-conduct/>.

- Identification of the allegations potentially constituting sexual harassment as defined in Policy 1202;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of Policy 1202 to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility,
- Any disciplinary sanctions the University imposes on the Respondent,
- Whether supportive measures will be provided to the Complainant;<sup>13</sup> and
- The recipient's procedures and permissible bases for the Complainant and Respondent to appeal.

The Hearing Officer may request information from the Hearing Coordinator, Title IX Coordinator, or Title IX Investigator to assist in preparing the Notice of Determination. The Hearing Officer will provide the Notice of Determination to the Hearing Coordinator and the Title IX Coordinator. The Title IX Coordinator or the Hearing Coordinator (with a copy to the Title IX Coordinator) shall send the Notice of Determination to the Parties simultaneously.

If an appeal is not filed within the timeframe stated below, the decision stated in the Notice of Determination is final. If no appeal is filed before the deadline, the Hearing Coordinator shall notify both Parties (with a copy to the Title IX Coordinator) that no appeal was filed and that the Notice of Determination and any sanctions imposed are final.

### **M. Appeals**

Either the Party may appeal of the outcome of the hearing. Disagreement with the outcome is not a basis for appeal. A witness or Party failing to appear at the hearing or a Party not providing information available to the Party to the Investigator, is also not a valid grounds for appeal. Valid grounds for an appeal of the outcome of the hearing are limited to:

- Procedural irregularity that affected the outcome of the hearing.
- The discovery of new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the hearing.
- The Title IX Coordinator, Investigator(s), or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or either Party that affected the outcome of the hearing.

**In order to file an appeal, an appeal must be submitted within five business days following the date of the Notice of Determination is sent to the Parties. The appeal form must be received by 5:00 p.m. on the last day of the appeal period. Late appeals will NOT be considered.**

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<sup>13</sup> The Notice of Determination will not state what, if any supportive measures are provided to the Complainant, just whether or not supportive measures have been or will be provided.

In order for a student to file an appeal, the student must fill out the form located at:  
<https://studentconduct.gmu.edu>

Employees may submit their appeal directly to [titleix@gmu.edu](mailto:titleix@gmu.edu).

If an appeal is filed, any sanctions imposed in the Notice of Determination are stayed pending resolution of the appeal.

Upon receipt of the appeal request, the Hearing Coordinator (or Designee) will notify the Title IX Coordinator by sending a copy of the appeal and assign the appeal to an Appeal Officer. The Appeal Officer will be a person who has no prior substantive knowledge of the facts of the case, and has no personal knowledge of, or association with either the Respondent or Complainant.

If an appeal is filed, the Title IX Coordinator or the Hearing Coordinator (with copy to the Title IX Coordinator) will send both Parties a Notice of Appeal within five business days. The Notice of Appeal will provide both Parties with any appeal documents that have been filed and the name of the Appeal Officer. The Notice of Appeal will also state that each Party may submit a written response to any appeal submitted by the other Party and the deadline for doing so.

**If a Party wishes to provide a response, documentation must be provided to the Hearing Coordinator no later than five (5) business days following the transmission of the Notice of Appeal (by 5:00 p.m.). Late responses will NOT be considered.** The Hearing Coordinator will provide a copy of any response to the other Party, the Appeal Officer, and the Title IX Coordinator.

Either Party may challenge the impartiality of the assigned Appeal Officer based on prior relationship or a bias or conflict of interest. In order to do so, the Party must submit an explanation of the basis for the challenge in writing to the Hearing Coordinator within five business days (by 5:00 p.m.) following transmission of the Notice of Appeal. If a Party challenges the impartiality of the assigned Appeal Officer, the Hearing Coordinator shall consider the basis for the challenge and may assign a new Appeal Officer. The decision of the Hearing Coordinator on any such challenge is final.

The Appeal Officer will base their decision on the written appeal request, any response, all case materials, and the recording of the hearing. The Appeal Officer may also consult with or request information from the Hearing Coordinator, the Title IX Coordinator, or the Title IX Investigator (e.g., information about an alleged procedural irregularity or bias). Any such consultations or requests and information provided in response shall be documented and maintained.

In making a determination on the appeal, Appeal Officers may not substitute their judgment for the judgment of the Hearing Officer as to the merits of the case. An Appeal Officer's disagreement with the determination made by the Hearing Officer is not a basis to grant an appeal. Rather, an Appeal Officer must find, by a preponderance of the evidence, that one of the bases for granting an appeal has been shown by the appealing Party.

The Appeal Officer may decide to:

- Deny the Appeal;
- Remand the case with instructions to conduct a new hearing.

The Appeal Officer shall prepare a written decision and send it to the Hearing Coordinator and Title IX Coordinator. The Title IX Coordinator or Hearing Coordinator (with a copy to the Title IX Coordinator) will

send a copy of the written decision to both Parties simultaneously. The documentation will contain the rationale for the appeal decision.

Appeals will ordinarily conclude within 20 business days from receipt of the non-appealing party's statement (or passage of the deadline to do so if no statement is provided) unless a longer period of time is determined to be necessary. If a longer time is needed, the Hearing Coordinator will notify the Parties.

If the Appeal Officer denies the appeal, this is a final decision. The decision and sanctions in the Notice of Determination are final and shall take effect immediately.

If the Appeal Officer remands the case, the Hearing Coordinator will schedule a new hearing. The Hearing Coordinator shall decide whether to use the same Hearing Officer on remand or select a new Hearing Officer.

#### **N. Compliance with Sanctions**

For cases where the Respondent is a student, the Office of Student Conduct is responsible for instituting and monitoring compliance with sanctions. For cases where the Respondent is an employee the, Department of Human Resources and/or the employee's supervisor are responsible for instituting and monitoring compliance with sanctions. The institution and monitoring of sanctions will be done in coordination with the Title IX Coordinator who has responsibility for the effective implementation of any remedies imposed in this process. The Title IX Coordinator will be notified when a Respondent completes the required sanctions or if the Respondent fails to complete the required sanctions.

Failure to comply with the sanctions may result in further disciplinary action.

#### **O. Transcript Notations for Students**

As is required by Virginia law, a student who has been suspended or expelled for a sexual misconduct violation shall have a notation placed on his or her academic transcript. The notation will state that a student has been "Suspended or Dismissed for a Violation of the Code of Student Conduct". Additionally, any student who is alleged to have violated this policy who withdraws from the University while under investigation will also have a notation placed on her or his academic transcript; this notation will state that the student has withdrawn from the institution while under investigation for a violation. The University may also move forward with conduct proceedings if the student(s) has withdrawn.

### **V. INFORMAL PROCESS**

#### **A. Initiating Informal Resolution Process**

After a Formal Complaint is filed, either the Complainant or Respondent may request an informal resolution instead of a formal process. The Title IX Coordinator, however, has the discretion to determine whether the nature of the reported conduct is appropriate for informal resolution, to determine the type of informal resolution that may be appropriate in a specific case, and to refer a report of Prohibited Conduct for formal investigation at any time. The Title IX Coordinator may decline the request for informal resolution in any particular case and may termination an ongoing informal resolution process at any time.

#### **B. Notice of Informal Process**

Prior to commencing an informal process, the Title IX Coordinator must give both Parties a written notice disclosing:

- The allegations made in the Formal Complaint,
- The requirements of the informal resolution process including the circumstances under which it precludes the Parties from resuming a Formal Complaint arising from the same allegations
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared

### **C. Consent Required**

#### **Both Parties must give their consent in writing to the specific type of informal resolution process.**

Participation in informal resolution (including any specific form of informal resolution) is voluntary. The University will not compel a Complainant or a Respondent to engage in informal resolution, will not compel the Parties to confront one another face-to-face, and will allow a Complainant or a Respondent to withdraw from the informal resolution at any time.

### **D. When Informal Resolution Process is Not Permitted**

Informal resolution is not permitted to resolve allegations that a University employee engaged in Prohibited Conduct towards a student. Forms of informal resolution that involve face-to-face meetings between the Complainant and the Respondent, are not available in cases involving sexual assault.

### **E. Types of Informal Resolution**

Informal resolution may include:

**Resolution with the Assistance of a Third Party:** A Complainant may seek assistance in informally resolving a report of Prohibited Conduct during a facilitated meeting or meetings between the Parties. The availability of this form of informal resolution, and any resolution reached through such form of informal resolution, is subject to the agreement of the Title IX Coordinator, the Complainant, and the Respondent. This form of informal resolution may not be used where the alleged Prohibited Conduct involves sexual assault.

**Mediation:** The Parties may agree to engage in mediation with the goal of reaching an informal resolution agreement. Such an agreement may include interventions and remedies, such as actions designed to maximize access to education, extracurricular and/or other University activities; increased monitoring, supervision and/or security on or around campus; targeted or broad-based educational programming or training for relevant individuals or groups; academic, workplace and/or University housing accommodations; restorative sanctions; and/or any other support measures to help achieve the goals of this Policy.

If an agreement acceptable to the University, the Complainant, and the Respondent is reached through informal resolution, the terms of the agreement are implemented and the matter is resolved and closed when the terms are completed. If an agreement is not reached, and the Title IX Coordinator determines that further action is necessary, or if the Respondent fails to comply with the terms of the informal resolution agreement, the matter may be referred for a formal investigation and hearing under these Procedures.

### **F. Impact on Ability to Pursue Formal Process**

At any time prior to agreeing to a resolution, either Party has the right to withdraw from the informal resolution process and start or resume the formal process.

Pursuing informal resolution does not preclude later use of the formal investigation and hearing process, if the informal resolution fails to achieve a resolution acceptable to the Parties and the University.

If informal resolution does achieve a resolution acceptable to the Parties and the University, that resolution will be documented by the Title IX Coordinator. The matter will be considered closed and resolved once the terms of the resolution are completed and no formal process may be initiated based on the allegations in the Formal Complaint.