

Avila University
Prohibited Discrimination and Harassment Policy and Procedures

Effective Date:

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I. Purpose and Policy Statement

The purpose of this policy is to establish Avila University's (the "University") prohibition against discrimination and harassment. Avila University is a Catholic university founded and inspired by the Sisters of St. Joseph of Carondelet. Avila University does not discriminate against any applicant or student on the basis of sex, race, religion, age, color, disability, sexual orientation or national origin.

This Policy is a companion policy to the University's Title IX Policy. This Policy is intended to apply to those cases that do not fall within the jurisdiction of Title IX. The Prohibited Conduct listed in Section II below are intended to cover many of the same prohibited conduct offenses in the Title IX policy, but may expand beyond the legal requirements provided by Title IX or prohibit additional conduct not covered until Title IX.

II. Prohibited Conduct

- A. Discrimination: Conduct of any nature that denies an individual within a protected class the opportunity to participate in or benefit from a University program or activity, or otherwise adversely affects a term or condition of an individual's employment, education, or living environment.
- B. Harassment: Unwelcome verbal or physical conduct based on a protected class that is sufficiently severe or pervasive that it substantially interferes with an individual's employment, education or access to university programs, activities, or opportunities, and would have such an effect on a reasonable person who is similarly situated. Harassment may include, but is not limited to, verbal or physical attacks, graphic or written statements, threats, or the use of slurs or other derogatory language/statements in reference to others. Whether the alleged conduct constitutes prohibited Harassment depends on the totality of the particular circumstances, including the nature, frequency, and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved.
- C. Sex exploitation: Taking sexual advantage of another for one's benefit, or to benefit or advantage anyone other than the one being exploited, by:
 - 1. Viewing, possessing, producing, or distributing child pornography;
 - 2. Non-consensual recording, disseminating, or copying of images, photography, video, or audio recording of sexual activity or nudity conducted in a private space; or

3. Purposefully exposing another person to a sexually transmitted infection, or sexually transmitted disease, without their knowledge.
- D. Sex discrimination means conduct on the basis of sex that satisfies one or more of the following:
1. Discrimination on the basis of sex characteristics.
 2. Discrimination on the basis of sex stereotypes.
 3. Discrimination on the basis of sexual orientation.
 4. Discrimination on the basis of gender identity.
 5. Discrimination on the basis of pregnancy or related conditions.
 6. Sex-based Harassment.
- E. Sex-based harassment: 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:
1. Quid pro quo: an employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity explicitly or impliedly condition the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.
 2. Hostile Environment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - a) The degree to which the conduct affected the Complainant's ability to access the University's education program or activity;
 - b) The type, frequency, and duration of the conduct;
 - c) The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each

party that may be relevant to evaluating the effects of the conduct;

- d) The location of the conduct and the context in which the conduct occurred; and
 - e) Other sex-based harassment in the University's education program or activity.
3. Sexual Assault: As defined by the [VAWA](#), means "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent." The University further defines sexual assault into the following categories:
- a) Non-consensual penetration: Penetration by a person upon another person without affirmative consent. Penetration includes, but not limited to, any vaginal or anal penetration by a penis, object, tongue, or finger, as well as any mouth-to-genital contact, no matter how slight the penetration or contact.
 - b) Non-consensual sexual contact: Sexual contact, including but not limited to kissing, fondling, and/or contact with intimate body parts, without affirmative consent. The term "intimate body parts" includes, but is not limited to, breasts, buttocks, groin, genitals, or other body parts that under the circumstances a reasonable person would know that the other person regards to be an intimate body part. The following applies to contact with intimate body parts: contact must be intentional; contact may be either over or under the clothing; contact includes causing a person to touch an intimate body part of another person or causing a person to touch their own intimate body part; and contact also includes contact made with body fluids.
4. Dating Violence: As defined under [VAWA](#), means violence committed by a person:
- a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship.

5. Domestic Violence: As defined under [VAWA](#), means a felony or misdemeanor crimes committed by a person who:
- a) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the University, or a person similarly situated to a spouse of the victim;
 - b) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - c) Shares a child in common with the victim; or
 - d) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction;
6. Stalking: As defined under [VAWA](#), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- a) Fear for the person's safety or the safety of others; or
 - b) Suffer substantial emotional distress.

F. Retaliation: intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy, or 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 Policy.

III. Definitions

A. Advisor: will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding. The University may establish restrictions regarding the extent to

which the advisor may participate in these procedural processes, as long as the restrictions apply equally to the parties.

- B. Affirmative Consent: a knowing, voluntary, and mutual decision among all participants to engage in sexual contact. It is the responsibility of each person involved to ensure they have the affirmative consent of the other(s) to engage in each sexual contact.

Consent can be communicated by words or actions, as long as those words or actions convey clear willingness to engage in the sexual contact. In determining the presence of affirmative consent, the University will consider the presence of any force, threat of force, or coercion; whether the Complainant had the capacity to give consent; and, whether the communication (through words and/or actions) between the parties would be interpreted by a reasonable person under similar circumstances as a willingness to engage in a particular sexual act.

The following principles apply to the above definition of affirmative consent:

1. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, gender expression, or any other protected characteristic.
2. Affirmative consent cannot be obtained through physical force, threats, or coercion.
3. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.
4. Affirmative consent to any sexual act or prior consensual sexual activity does not necessarily constitute consent to any other sexual act.
5. A person cannot provide affirmative consent if they are below the legal age of 18, unless otherwise permitted by law.
6. Affirmative Consent cannot be inferred from silence, passivity, or lack of verbal or physical resistance.
7. An individual cannot provide affirmative consent if they are incapacitated. A person is incapacitated when they lack the ability to choose knowingly to participate in sexual activity, for example when they are unconscious, asleep, involuntarily restrained, physically helpless, under the influence of alcohol or other drugs, or otherwise unable to provide consent. A person who is incapacitated lacks the capacity to give affirmative consent because they cannot understand the "who, what, when, where, or how" of

their sexual interactions. In evaluating consent in cases of alleged incapacitation, the university asks if the Respondent knew or reasonably should have known the Complainant was incapacitated. Voluntary intoxication does not absolve a person of responsibility for non-consensual sexual contact.

- C. Appeal Decision-Maker: A trained and impartial person tasked with reviewing appeals of final decisions subject to the Appeal Review Process in this Policy. The Appeal Decision-Maker cannot be the Title IX Coordinator, nor the investigator or hearing officer assigned to the case submitted for appeal review. The Appeal Decision-Maker performs their duties in an impartial, neutral, and objective manner, free from bias.
- D. Coercion: The use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including psychological or emotional pressure, physical or emotional threats, intimidation, manipulation, or blackmail that causes the person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they eliminate a reasonable person's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include but are not limited to threatening to "out" someone based on sexual orientation, gender identity, or gender expression; threatening to harm oneself if the other party does not engage in the sexual activity; and threatening to expose someone's prior sexual activity to another person.
- E. Complainant means:
 - 1. A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under this Policy; or
 - 2. A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under this Policy and who was participating or attempting to participate in the University's education program or activity at the time of the alleged sex discrimination.
- F. Complaint: an oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged discrimination under this Policy.
- G. Complaint Resolution Process: the University's formal resolution process for addressing sex discrimination allegations arising under this Policy.

H. Confidential Employee:

1. An employee of the University whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
 2. An employee of the University whom the University has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or
 3. An employee of the University who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination - but the employee's confidential status is only with respect to information received while conducting the study.
- I. Disciplinary sanctions: consequences imposed on a Respondent following a determination under this Policy that the Respondent violated the University's prohibition on sex discrimination.
- J. Hearing Officers: persons responsible for conducting the Complaint Resolution Process hearing in an orderly manner, including controlling the conduct of all participants and attendees of the hearing and rendering a written determination regarding responsibility with respect to the Respondent's alleged charges. The Hearing Officers perform their duties in an impartial, neutral, and objective manner, free from bias.
- K. Investigator(s): The University will ensure that complaints that proceed through the Complaint Resolution Process are properly investigated under this Policy by assigned investigators. The Investigators are neutral and impartial fact finders who gather evidence during the investigation and produce an investigation report at the conclusion of the investigation. Investigators perform their duties in an impartial, neutral, and objective manner, free from bias.
- L. Mandated Reporters: designated employees who are required to immediately share all known details of incidents of sex discrimination with the Title IX Coordinator. All faculty and staff at Avila University are Mandated Reporters, aside from Counselors and University-Employed Clergy. Any questions about the statuses of an employee as a Mandated Reporter should be directed to the Title

IX Coordinator.

M. Parental Status: the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

1. A biological parent;
2. An adoptive parent;
3. A foster parent;
4. A stepparent;
5. A legal custodian or guardian;
6. In loco parentis with respect to such a person; or
7. Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

N. Party: a Complainant or Respondent.

O. Preponderance of the Evidence: whether it is “more likely than not” an alleged violation of this policy occurred as reported.

P. Pregnancy or Related Condition: means the following:

1. Pregnancy, childbirth, termination of pregnancy, or lactation;
2. Medication conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Q. Relevant: related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

R. Remedies: means measures provided, as appropriate, to a Complainant or any other person the University identifies as having had their equal access to the

University's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the University's education program or activity after a University determines that sex discrimination occurred.

- S. Respondent: a person who is alleged to have violated the University's prohibition on sex discrimination.
- T. Retaliation: intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the this Policy.
- U. Supportive Measures: individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:
 - 1. Restore or preserve that party's access to the University's education program or activity, including measures that are designed to protect the safety of the parties or the University's educational environment; or
 - 2. Provide support during the University's grievance procedures or during an informal resolution process.
- V. Title IX Coordinator: The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX and is responsible for the University's administrative response to reports and formal complaints of sex discrimination, sex-based harassment, retaliation, and other conduct prohibited under this Policy. The Title IX Coordinator is available to discuss the Complaint Resolution Process, coordinate supportive measures, initiate interim actions, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators to facilitate any responsibilities assigned to the Title IX Coordinator in this Policy or in the Prohibited Discrimination and Harassment Policy.

IV. Reporting

Reporting sex discrimination incidents informs the University of the allegation, which allows the University to provide supportive measures to the Complainant and does not necessarily result in

the initiation of the Complaint Resolution Process. All identified Complainants who report incidents of sex discrimination will be offered individualized supportive measures. Mandated Reporters are required to report known incidents of and/or information regarding sex discrimination promptly to the Title IX Coordinator. For others in the University community, you are strongly encouraged to report sex discrimination prohibited under this Policy as soon as you become aware of such conduct.

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the University investigate and make a determination about alleged discrimination under Title IX:

- A. A “Complainant,” which includes:
 - 1. A student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under this Policy; or
 - 2. A person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under this Policy at a time when that individual was participating or attempting to participate in the University’s education program or activity;
- B. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
- C. The University’s Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements set forth in the Section VI. C. below.

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- A. Any student or employee of the University; or
- B. Any person other than a student or employee who was participating or attempting to participate in the University’s education program or activity at the time of the alleged sex discrimination.

The University may consolidate complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one

party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a party, Complainant, or Respondent include the plural, as applicable.

Any person wishing to report a complaint of sex discrimination, including sex-based harassment, may provide an oral or written request to any of the following:

Dean of Students/Title IX Coordinator
Curtis Burton
Phone Number: 816-501-2465
Email: curtis.burton@avila.edu

Deputy Title IX Coordinator
Allison Ouellette
Phone Number: 816-877-1183
Email: allison.ouellette@avila.edu

Chief People and Belonging Officer
Jody Mitchell
Phone Number: 816-501-3618
Email: jody.mitchell@avila.edu

An eligible Complainant may make an anonymous report by telephone through the Avila's Campus Conduct Hotline (866) 943-5787. Your decision to remain anonymous, however, may greatly limit the University's ability to stop the alleged conduct, investigate, or act against parties accused of violating this Policy.

You may also file a report with Campus Safety at (816) 985-6079 or to the Kansas City Police Department (816) 234-5550 (non-emergency) or 911 (emergency).

V. Confidential Support and Resources

Students who wish that details of an incident be kept confidential, or do not know if they want to or are ready to report an incident to the University and/or law enforcement, may speak with a Confidential Resource.

These individuals are on-campus and are available for students to discuss incidents and issues related to Title IX Prohibited Conduct and non-Title IX conduct listed in this Policy, on a confidential basis. Students may discuss their situation, and receive information, assistance, and resources, while still retaining control of their decision to report an incident to the University and/or law enforcement. Confidential Resources will not disclose information about incidents of Prohibited Conduct to anyone, including law enforcement or the Title IX Coordinator, except in the following limited circumstances:

- A. Life-threatening risk: If the student poses a life-threatening risk to themselves or others, responsible individuals may need to be notified, for their protection.
- B. Child abuse reporting: When any individual identified under [Missouri Revised Staute Section 210.115](#) has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report. Reports are to be made immediately to the 24 hour, 7 day a week Child Abuse/Neglect Hotline telephone number (1-800-392-3738 or 1-844-CAN-TELL) maintained by Children’s Division. Mandated reporters may also report online at <http://dss.mo.gov/cd/can.htm>.
- C. Clery Act: If the information being shared occurred in a Clery Act location and is a Clery Act offense (rape, fondling, incest, statutory rape, dating violence, domestic violence, and stalking), Campus Security report must be filed with the Clery office. However, this does not include personally identifiable information.
- D. Court Order or Search Warrant - Information may be required to be disclosed as a result of a court order or search warrant in connection with judicial proceedings.

VI. Preliminary Considerations

A. Access Accommodations:

A Student requesting an accommodation must follow the appropriate process for requesting an accommodation through the Student Access Office. The Title IX Coordinator will work in collaboration with the Student Access Office to determine the appropriate accommodation. The Title IX Coordinator will notify the Student of the appropriate accommodation and how it applies to the Complaint Resolution Process.

B. Communications

The University expects all students to maintain a University email account in accordance with [Avila University’s IT Services](#). The University generally considers all emails received by the Student when sent by the University. Students are expected to monitor their Avila University email regularly.

C. Dismissal of a Complaint

The University may dismiss a complaint if:

1. The University is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in the University's education program or activity and is not employed by the University;
3. The University obtains the Complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and the University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under this Policy, even if proven; or
4. The University determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under this Policy. Before dismissing the complaint, the University will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the University 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 the University will notify the parties simultaneously in writing.

The University will notify the Complainant that a dismissal may be appealed on the bases outlined in the Appeal Review Process. If dismissal occurs after the Respondent has been notified of the allegations, then the University will also notify the Respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, the University will follow the procedures outlined in the Appeal Review Process.

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

1. Offer supportive measures to the Complainant as appropriate;
2. If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and

Take other prompt and effective steps, as appropriate, through the Title IX Coordinator, to ensure that sex discrimination does not continue or recur within the University's education program or activity.

D. Interim Action

If reported allegations of Prohibited Conduct under this Policy present an immediate and substantial threat to the health or safety of any person(s), the Title IX Coordinator, in consultation with other qualified campus officials, will determine whether interim action is necessary. This determination is made on a case-by-case basis through an individual and objective assessment of the parties' needs and of the Respondent's alleged misconduct.

If interim action is to be taken, the following will occur:

1. When possible, the Complainant will be informed of any interim action prior to its implementation.
2. The Respondent will receive a written Notice of the Interim Action (which may occur simultaneously with the implementation of the interim action) and be provided an opportunity for a meeting with the Title IX Coordinator, to occur within two (2) business days of the Notice. During the meeting, the Respondent may ask questions and agree to the interim action or request that the interim action be amended or rescinded.
3. Within one (1) business day of the meeting, the parties will receive an interim action decision from the Title IX Coordinator.
4. Both parties may request a review of the Title IX Coordinator's interim action decision by the Vice President of Academic Affairs or their designee. A final decision will be issued to both parties within ten (10) business days of the request.

If, after an interim action has been taken, the Complainant declines to further participate in the adjudication of the alleged conduct and there is insufficient other evidence to adjudicate the alleged conduct, the interim action may be rescinded. The University may offer the Complainant and Respondent other supportive and/or remedial measures designed to ensure their continued access to their education and ensure the health and safety of the Complainant and campus community.

E. Law Enforcement Delays

At the request of law enforcement, the University may temporarily delay the Complainant Resolution Process under this Policy. The decision will be made taking into consideration the health and safety of the campus community. If the Title IX Coordinator receives this delay request, the Title IX Coordinator will promptly notify all parties and establish new procedural timelines.

In cases where there are concurrent criminal and conduct processes, both investigations may proceed concurrently, and the Investigator may conduct interviews jointly with law enforcement as appropriate. However, the University disciplinary processes and the law enforcement processes are separate processes, each with its own timeline and other requirements.

F. No-Contact Directives

When a Student requests a No-Contact Directive, a mutual No-Contact Directive will be issued to both parties. The Title IX Coordinator may also decide to issue a mutual No-Contact Directive between parties. A mutual No-Contact Directive applies equally to both parties. Generally, a mutual No-Contact Directive remains in effect until otherwise stated. The Title IX Coordinator may remove the directive by petition from both parties or when circumstances warrant its removal.

A violation of a No-Contact Directive should be immediately reported to the Title IX Coordinator. Questions regarding conduct that may violate a No-Contact Directive should be directed to the Title IX Coordinator. Failure to comply with a No-Contact Directive may constitute a separate Community Standards and Expectations violation and may be considered by the University in determining whether to issue an interim action and/or in determining a sanctioning plan if a party is found responsible at the conclusion of the investigative process.

G. Participation Expectations

All participants are required to be honest and forthright throughout the process. False statements are statements that a participant knows to be untrue and include statements that intentionally omit a material fact.

The University will not draw an adverse inference against a party who chooses to remain silent during the process. However, if a party or witness chooses to answer some material questions, but not others, or chooses to participate in some portions of the process, but not others, the University may consider how that affects the credibility or weight of the evidence provided by that party or witness. The Hearing Officers will not draw an adverse inference about whether a violation occurred based solely on the absence of a party or witness from the hearing or refusal to answer cross-examination or other questions.

H. Presumption of Non-Responsibility

The University presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its Complaint Resolution Process.

I. Privacy

The University must keep confidential the identify of any individual who has made a report or complaint of Prohibited Conduct as defined in this Policy, including any individual who has made a report or filed a formal complaint, any Complainant, any individual how has been reported to be the perpetrator of any alleged Prohibited Conduct, any Respondent, and any witnesses, except as may be permitted under FERPA, required by law, or to carry out the purpose of this Policy, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Disciplinary action records will be maintained for a minimum of seven (7) years in accordance with State of Missouri records policies and in compliance with federal legislation such as FERPA, the Clery Act, and Title IX.

The University will not require, allow, rely upon, or otherwise use evidence or questions that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has given voluntary, written consent to waive the privilege.

J. Request to Not Investigate

A Complainant may request that the University not initiate the Complaint Resolution Process. The University will seek to honor the Complainant's wishes to the extent possible while also meeting its obligation to protect the health and safety of the Complainant and the campus community.

Where the University can honor a Complainant's request to not initiate the Complaint Resolution Process, the University may take other appropriate steps designed to eliminate the alleged conduct, prevent its recurrence, and address its impact on the Complainant and/or the campus community.

Where the University is unable to honor a Complainant's request to not initiate the Complaint Resolution Process, the Complainant will be notified prior to the initiation of the process by the Title IX Coordinator. The Title IX Coordinator must consider, at minimum, the following factors when electing to initiate the Complaint Resolution Process on behalf of the Complainant:

1. The Complainant's request not to proceed with initiation of a complaint;
2. The Complainant's reasonable safety concerns regarding initiation of a complaint;

3. The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
4. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the Respondent is an employee of the University;
6. The scope of the alleged sex discrimination, including information suggesting a pattern, on-going sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
7. The availability of evidence to assist the Hearing Officers in determining whether sex discrimination occurred; and

Whether the University could end the alleged sex discrimination and prevent its recurrence without initiating the Complaint Resolution Process.

K. Resolution Agreements

Respondents who wish to accept responsibility for the alleged behaviors listed in the Notice of Allegation may do so through a Resolution Agreement. The Resolution Agreement will include the list of the alleged violations of the Community Standards and Expectations policy and the assigned Outcomes if the Respondent accepts responsibility. The Resolution Agreement may include other provisions including, but not limited to, waiver of other procedural rights within the Accountability Procedures.

L. Supportive Measures

The University will offer reasonably available individualized services, without any fee or charge, to the parties involved in a reported incident of Prohibited Conduct under this Policy, with or without initiating the Complaint Resolution Process.

Supportive measures may include, but are not limited to, any of the following:

1. Modifications to academic schedules;
2. Modifications to campus housing;

3. Modifications to student leadership;
4. Modifications to working situations;
5. Additional academic support; or
6. Special arrangements for a leave of absence, withdrawing, or dropping classes without penalty, if requested and reasonably available.

M. Timeline Extension Request

The University's Complaint Resolution provides estimated timelines at each of its phases. The University reserves the right to extend these timelines on a good-faith, as needed basis. Complainants and Respondents may submit petitions for timeline extensions to the Title IX Coordinator that establish a good-faith basis for extending a timeline. Good-faith petitions for a timeline extension may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, any intervening school break or vacation, or other unforeseen circumstances. Best efforts will be made to complete the Complaint Resolution Process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

N. Virtual Meetings

Any meetings that occur through the course of applying this Policy will occur through a virtual video conferencing software. Providing all meetings through a virtual video conferencing platform allows the University to maintain a more comfortable environment for parties and witnesses, to allow for equitable access to a party's advisor of choice, and to allow for ease of meeting transcript creation. The University reserves the right to enforce the virtual meeting provision in all cases and circumstances, unless petitioned by a party with good-faith reasoning as to why meetings should occur in-person. The attendance at virtual or in-person meetings is limited to the invited party or parties, witness(es), party advisors, and any staff deemed necessary by the University.

VII. The Complaint Resolution Process

The Complaint Resolution Process begins when a Complainant agrees to initiate the process after reporting a complaint to the University. The Title IX Coordinator may also initiate the Complaint Resolution Process on behalf of the Complainant if after weighing the factors above (Section VI. C.).

A. Notice of Allegation

Upon initiation of these procedures, the University will provide the parties with a written Notice of Allegation (NOA). The NOA will be electronically sent to the parties' University e-mail accounts and is considered received when sent. The NOA will outline the following:

1. The University's Complaint Resolution Process under this Policy;
2. 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), the conduct alleged to constitute sex discrimination and/or sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
3. Whether the Respondent faces suspension or expulsion as a result of a responsible finding at the conclusion of the Complaint Resolution Process;
4. A projected Case Calendar;
5. Retaliation is prohibited;
6. The Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the Complaint Resolution Process;
7. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to trained, impartial Hearing Officers;
8. The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
9. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and an investigative report that accurately summarizes this evidence; and
10. Section VI. 2.(h) of the University's Community Standards and Expectations Policy prohibits Falsification in the following manner: Knowingly providing/presenting, creating, or possessing falsified or forged materials, records, or documents. Additionally, intentionally initiating any false report or providing false or misleading information to a person acting in their capacity as a University or public official.

If, in the course of an investigation, the University decides to investigate additional allegations of sex discrimination and/or sex-based harassment by the Respondent toward the Complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

B. The Investigation Phase

The University will provide for adequate, reliable, and impartial investigation of complaints. The burden is on the University, not on the parties, to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred. The University will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

The Investigation Phase of the Complaint Resolution Process begins when the University sends the NOA and concludes within approximately twelve (12) weeks. The Investigation Phase consists of the following steps:

1. Fact-Gathering:

The Investigator will conduct a thorough fact-gathering investigation which includes interviewing the parties and witnesses and gathering other evidence. The parties may identify witnesses they request to have interviewed and may suggest and provide documents, photographs, text message or social media communications, or other evidence. The Investigator may also ask the parties to provide evidence and information about witnesses, and the parties' responses to such requests may become part of the record. The Fact-Gathering portion of the Investigation Phase will conclude approximately twenty (20) business days from the date of the NOA.

2. The Evidence File:

Within five (5) business days after fact-gathering concludes, the parties will be given electronic access to the Evidence File.

The Evidence File consists of all evidence obtained up to that point in the investigation that is relevant to the allegations raised in the NOA. This includes, but is not limited to, transcripts or recordings of the interviews with parties and witnesses, and other records, including documents and records of electronic communications gathered during the investigation.

The following is not considered relevant and will be excluded from the Evidence File:

- a) Information about the Complainant's sexual predisposition or prior sexual behavior unless offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the information concerns specific incidents of the Complainant's prior sexual behavior with the Respondent and is offered to prove consent;
- b) Information covered by legal privileges including attorney-client privileged information, medical or counseling records, and communications during alternative resolution. However, when a party provides medical information about themselves to the University, the medical or counseling information is no longer covered by legal privilege and the University will review the information for relevance and include it in the record just as any other information.

Within ten (10) business days after receiving the Evidence File, the parties may submit a written response to the Investigator that may include the following:

- a) Requests for the investigator to conduct additional investigation. Additional investigation can include: interviewing additional witnesses, additional lines of questioning or inquiry for witnesses already interviewed, and identifying additional relevant information that should be gathered in order to ensure the thoroughness of the investigation.
- b) Requests to meet with the investigator, either for the first time or for an additional interview.
- c) Submission of (additional) evidence which should be considered when reaching a decision about responsibility for the allegations.

The Investigator may conduct further fact-gathering if deemed necessary after the parties respond to the Evidence File.

C. The Adjudication Phase

This portion of the process begins when the parties receive the Investigation Report and concludes in approximately eight (8) weeks when the Hearing Officers issue a written Notice of Findings. The Adjudication Phase consists of

the following steps:

1. Investigation Report:

The Investigator will prepare an Investigation Report which will be sent to the parties within fifteen (15) business days after the due date for the response to the Evidence File, and at least ten (10) business days before the Live Hearing.

The University will designate a panel of three (3) Hearing Officers who will be responsible for overseeing the Live Hearing process, reaching a decision about responsibility for the alleged violations, and issuing the Assigned Outcomes in the Notice of Findings. Prior to the Live Hearing, one of the Hearing Officers will be designated as the Hearing Chair. The Hearing Chair will rule on all procedural matters and on objections to exhibits or testimony of participants at the hearing. All Hearing Officers, including the Hearing Chair, may question participants who testify at the hearing, and are entitled to have the advice and assistance of legal counsel.

2. Pre-Hearing Submissions:

Pre-hearing submissions are due five (5) business days after receipt of the Investigation Report. Pre-hearing submissions, include:

- a) A Party's response to the Investigation Report, if any;
- b) A witness list containing the names of those Witnesses interviewed during the investigation phase whom the Party wishes to have participate in the hearing; and
- c) Petitions a party wishes to file before the start of the hearing.

If a party wishes to have a witness participate in the hearing who was not interviewed during the investigation phase or admit evidence not included in the Investigation Report, the party must first submit a petition showing good cause to do so. Petitions must be submitted as part of the Pre-Hearing Submissions or as soon thereafter as the need for the witness or evidence is known. This requirement does not pertain to information provided orally by a party during the hearing or to information obtained during witness cross-examination.

After considering any timely responses to the Investigation Report, the Hearing Chair will decide which evidence is relevant to the allegations in the NOA.

3. Pre-Hearing Meeting:

The Hearing Chair will hold a pre-hearing meeting to discuss any issues that could help the hearing proceed more smoothly if discussed ahead of time. These issues include, but are not limited to, reviewing the advisor decorum requirements, discussing the Live Hearing logistics, issuing any decisions related to Pre-Hearing Submissions, and determining which witnesses, if any, will be called at the Live Hearing. Parties are not required to attend this meeting, but the parties' advisors are strongly encouraged to attend. The Pre-Hearing Meeting typically occurs one to two (1-2) business days before the Live Hearing.

4. The Live Hearing

The Live Hearing is an administrative proceeding not comparable to a criminal or civil trial and is not subject to the rules of evidence, the rules of civil procedure, or other rules that apply to court and court-like proceedings.

The Live Hearing is a closed proceeding and is not open to the public. The individuals who may be present during the hearing are the Hearing Officers, Complainant, Respondent, Party Advisors, Witnesses, and other individuals the Hearing Officers deems appropriate.

The Live Hearing will be recorded via the video conferencing software, which includes both an audio and video recording. Live Hearing recordings are the sole property of the University. No other person is permitted to audio or video record any part of the Live Hearing. Failure by the University to record all or part of a Live Hearing shall not be grounds for invalidating the Live Hearing, does not constitute a procedural irregularity, and is not a basis of appeal. The University will make the transcript of the hearing available for the parties to review upon request.

At the beginning of the Live Hearing, the Hearing Chair will resolve any outstanding Pre-Hearing petitions and admit the Evidence File and Investigation Report into the record. The Hearing Chair maintains the sole discretion to admit additional evidence into the record as the Live Hearing proceeds.

During the Live Hearing, the parties, via their Advisors, may give opening and closing statements. The parties will each have the opportunity to speak by giving an oral statement or by answering direct examination questions from their advisor. Advisors may not speak on behalf of the parties during this time. The parties, via their Advisors, may submit cross-examination questions for the opposing party that will be asked by the Hearing Officers. The Hearing Chair must determine the relevance of each submitted cross-examination question prior to asking the submitted question. The Hearing Officers may also ask questions of the parties not submitted by either party. These questioning procedures also apply to the Hearing Officers and parties' questioning of witnesses.

Parties are never permitted to conduct cross-examination themselves. If a party does not have an Advisor to ask questions on their behalf, the University will provide the party with an advisor of the University's choice, without charge to the party, for the purpose of advisor-conducted questioning. In those instances, the University will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.

The parties are not required to attend the Live Hearing. If, despite being notified of the date, time, and location of the Live Hearing, one or both Parties are not in attendance, the Hearing Officers may proceed with the Live Hearing. If the Hearing Officers proceed with the Live Hearing, the Hearing Officers may issue the Notice of Findings and Assigned Outcomes despite a party's nonattendance. Where a party chooses not to attend the Live Hearing, their Advisor may still attend and participate as permitted under these procedures. The non-attendance by a party does not grant the party's Advisor additional rights.

The Hearing Chair may postpone the hearing for good cause and will notify the parties of the new hearing date. The Hearing Chair may also determine that it is appropriate to hold portions of a hearing on different dates. Examples of this include, but are not limited to, when the Hearing Chair determines that it is appropriate to do so in order to accommodate reasonable scheduling issues with a party, an advisor, or a witness, or when the Hearing Officers requires additional investigation by the Investigator before making a finding of responsibility.

5. Credibility Assessments

The University will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's

status as a complainant, respondent, or witness. The Hearing Officers will conduct a credibility assessment for each party and witness and will use that assessment in issuing a finding.

6. Notice of Findings and Assigned Outcomes

Within fifteen (15) business days of conclusion of the Live Hearing, the Hearing Officers, through the Hearing Chair, will issue a written Notice of Findings. The Notice of Findings will be issued simultaneously to the Complainant and Respondent. To the extent possible, the Hearing Chair will inform the parties 24-hours in advance of the expected delivery of the Notice of Findings so parties may coordinate a time to review the Notice of Findings with their Advisor or other trusted support person. The Notice of Findings includes the following:

- a) The applicable Prohibited Conduct violations and their definitions;
- b) A description and timeline of the procedural events leading to the Notice of Findings, including, but not limited to, the dates of any notices sent to the Parties, interview dates of Parties and witnesses, and methods used of gathering evidence.
- c) The evidence considered by the Hearing Officers when reaching the decision;
- d) Factual findings that support the ultimate decision;
- e) A statement of the ultimate conclusion for each applicable violation based on the preponderance of the evidence;
- f) The rationale for each conclusion drawn;
- g) The Assigned Outcomes, if the Hearing Officers find the Respondent responsible for the violation(s); and
- h) Instructions for how to appeal the decision.

In the instance that a Respondent is found responsible for any of the assigned violations, the Hearing Officers will provide the Respondent Assigned Outcomes. These Outcomes typically include Administrative and Educational Outcomes. Administrative Outcomes address the status of a Respondent and include, but are not limited to, loss of privileges, no-contact directives, warnings, probation, and removals from the University. Educational Outcomes provide opportunities for the Respondent to learn

from the behaviors and circumstances surrounding a case. Educational Outcomes include, but are not limited to, reflection essays, informative conversations, and on-demand educational programming. If appropriate, the Assigned Outcomes will also include remedies for the Complainant and/or other students experiencing the effect of sex discrimination and/or sex-based harassment in order to ensure the conduct does not continue or recur within the University's education program or activity.

B. Referral to Other Accountability Procedures

If during the course of the Complaint Resolution Process, it is discovered that a party, witness, or other person provided false information, that individual may be referred to Student Affairs for disciplinary proceedings in accordance with the Community Standards and Expectations Policy. False information includes, but is not limited to, statements that a person knows to be untrue or statements that omit a material fact. The evidence of providing false information must be independent of the finding made during the Complainant Resolution Process. No party, witness, or other person participating in the Complaint Resolution Process will be disciplined for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex-based harassment occurred. For example, a Complainant will not be referred to Student Affairs for disciplinary proceedings under the Community Standards and Expectations Policy simply because the Complainant alleged Non-consensual sexual contact and the Hearing Officers found the Respondent not responsible for this conduct.

C. The Appeal Stage

1. Preliminary Considerations

The following Appeal Procedures apply to both Title IX and Prohibited Discrimination and Harassment Policy cases adjudicated in the Complainant Resolution Process. The individual requesting an Appeal Request is considered the Appealing Party. The Appealing Party is limited to the Complainant and Respondent identified in a particular case. The Appealing Party retains the right to receive assistance from an Advisor consistent with the Advisor rights and limitations in Section III. B. above.

2. Submitting an Appeal Request

Within ten (10) business days of the issuance of the Notice of Findings, the Appealing Party may submit an Appeal Request through the [Appeal Request Form](#). The Appealing Party's Appeal Request must identify and support at least one of the following bases for appeal:

- a) Whether the Hearing Officers' findings are supported by the preponderance of the evidence;
- b) Whether a procedural irregularity occurred that affected the outcome of the case;
- c) Whether the assigned Outcome(s) are appropriate for the applicable violation(s);
- d) Whether the Title IX Coordinator, Investigator, or Hearing Officers had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome; or
- e) Whether new information, not available at the time of the Live Hearing and that could alter the decision, should be considered by the Appeals Decision-Maker.

If an Appeal Request contains multiple bases for appeal, the Appealing Party is responsible for meeting and supporting each of the identified bases. If an Appeal Request meets and supports some bases of appeals, and not others, the Appeal Decision-Maker may accept and decline individual bases of appeal during the Preliminary Review.

3. Appeal Decision-Maker Preliminary Review

The assigned Appeal Decision-Maker will conduct a preliminary threshold review of the Appeal Request to determine if it meets and supports at least one basis of appeal. If the Appeal Decision-Maker determines the Appeal Request meets the threshold review, the Appeal Decision-Maker will submit a Notice of Appeal Acceptance to the Appealing Party and the non-Appealing Party simultaneously. The non-Appealing Party will receive a copy of the Appealing Party's Appeal Request and will then have five (5) business days to submit a response. The Appealing Party will not receive a copy of the non-Appealing Party's response.

In the Notice of Appeal Acceptance sent to the Appealing and non-Appealing Parties, the Appeal Decision-Maker will update the Parties on the applicability of the assigned Outcomes. Typically, the Appeal Decision-Maker will delay the enforcement of the Assigned Outcomes until the conclusion of the Appeals Procedural process. However, the Appeal Decision-Maker retains the sole authority to determine the enforceability of the Assigned Outcomes and will communicate this

determination to all the Parties.

If the Appeal Decision-Maker determines the Appeal Request does not meet and support any bases of appeal, whether in whole or in part, the Appeal Decision-Maker will notify the Appealing Party of the deficiency in their Appeal Request, and give the Appealing Party three (3) business days to submit additional information. If the Appealing Party submits additional information that corrects the deficiency, the Appeal Decision-Maker may grant the Appeal Request and will notify the Appealing and non-Appealing Parties as described in the previous paragraph. If the additional information submitted by the Appealing Party does not correct the deficiency, the Appeal Decision-Maker will send a Notice of Appeal Denial to the Appealing Party. If an Appeal Request is denied, the non-Appealing Parties will not receive any notice of this denial, nor a notice that an appeal was filed.

4. Scope of the Appeal

Except for Appeal Requests accepted for the submission of new information not available at the time of the Live Hearing and that could alter the outcome, the scope of the appeal is limited to the Appeal Record. The Appeal Record may include, but is not limited to, the following information:

- a) The Evidence File and Investigation Report;
- b) The transcript of the Live Hearing;
- c) The documentation submitted by the Appealing Party in support of their Appeal Request; and
- d) The documentation submitted by the non-Appealing Party in support of their response to the Appeal Request.

5. The Appeal Review

Typically, the Appeal Decision-Maker will issue a final decision regarding the Appeal Submission within thirty (30) business days from their assignment to the appeal.

The Appeal Decision-Maker will review each appeal standard de novo - meaning the Appeal Decision-Maker may review the whole record and issue a new decision. The Appeal Decision-Maker is not bound to the Hearing Officers' findings, rationale, or Assigned Outcomes and can issue

a new finding based on a holistic review of the Appeal Record. This means the Appeal Decision-Maker may modify the sanction or change a decision, or recommend additional fact-finding occur before issuing a final Appeal Decision.

6. Appeal Decision and Outcomes

To the extent possible, the Appeal Decision-Maker will inform the parties 24-hours in advance of the expected delivery of the Appeal Decision so parties may coordinate a time to review the decision with their Advisor or other trusted support person. The Appeal Decision-Maker will simultaneously issue the Appeal Decision to the Appealing and non-Appealing parties.

The Appeal Facilitator will communicate the following to the Appealing Party and non-Appealing Parties in the Appeal Decision Letter:

- a) Whether the Appeal Request is granted or denied, either in whole or in part;
- b) The rationale and evidentiary support for the decision; and
- c) What actions may be associated with that Appeal Request grant or denial.

VIII. Exceptions to Procedures

Parties may request exceptions to these procedures through a written petition to the Title IX Coordinator. Petitions must include a brief statement describing the reason for requesting the exception and must be made with a reasonable amount of time for the University to consider the request. Petitions timelines may also be limited by deadlines established in the Complainant Resolution Process. The Title IX Coordinator retains the discretion to grant or deny any petitions, and may consult with the non-petitioning party and give them an opportunity to respond if the petition could impact both parties.

The University retains the right to alter these procedures based on good cause. If the University alters these procedures in a way that significantly impacts any part of the procedural process, the Parties will receive notification within a reasonable timeline.

If, at any point, a Party believes that an Investigator, the Hearing Officers, an Appeal Decision-Maker, or other individual who makes decisions as part of this procedural process are biased or have a conflict of interest, the Party may request an assignment of a new individual to serve in the applicable role. Parties should submit these petitions in the same manner described in this section and should do so as soon as possible. The following include, but are not limited to,

examples that are not sufficient to show bias or a conflict of interest:

- A. The assigned Investigator has previous, or concurrent, involvement in other cases involving the same petitioning Party;
- B. The assigned Hearing Officers have previous, or concurrent, involvement in other cases involving the same petitioning Party; or
- C. The assigned Investigator, Hearing Officers, Appeal Decision-Maker, or other individual who makes decisions as part of this procedural process has served a previous role or position within this process. For example, it is not biased or a conflict of interest for the assigned Investigator in the petition Party's case to have served as a Hearing Officer in another case completely unrelated to the petitioning Party's current case.

The petitioning Party must establish specific allegations about why an individual cannot be fair or impartial under the circumstances of a particular case. This includes, but is not limited to, a conflict of interest or bias for or against complainants or respondents generally or the petition Party generally. If the Title IX Coordinator grants a bias or conflict of interest petition, the University will assign a new person to serve in that particular role.