



# TITLE IX POLICY & PROCEDURES

## I. STATEMENT OF NON-DISCRIMINATION POLICY

Robert Paul Academy of Cosmetology Arts & Sciences (The institutions) does not discriminate on the basis of sex in the education programs or activities that it operates, and it is required by Title IX of the Education Act and the Regulations of the Department of Education (34 C.F.R. § 106, *et. seq.*) not to discriminate in such a manner. The requirement not to discriminate in any the institution education program or activity extends to admission to the College and employment opportunities with the College.

Pursuant to this policy and the procedures stated in this policy, the institution must respond to alleged incidents of sexual harassment, as defined below, that occurred in the institution's education program or activity, against a person in the United States.

## II. TITLE IX COORDINATOR

Inquiries about the application of Title IX Regulations of the Department of Education may be referred to the institution's Title IX Coordinator or the Assistant Secretary of the Department of Education, or both. The institution's Title IX Coordinator can be contacted at:

Robert Hamlin  
29 Greenmeadow Drive Timonium, MD 21093  
410-252-4481  
[fao@robertpaulacademy.com](mailto:fao@robertpaulacademy.com)

As an alternative to the above Title IX Coordinator, the following individual has also been trained as a Title IX Coordinator and can be contacted at:

Daria Ferrara  
29 Greenmeadow Drive  
Timonium, MD 21093  
412-561-3381  
[daria@robertpaulacademy.com](mailto:daria@robertpaulacademy.com)

The Assistant Secretary of the Department of Education can be contacted at:

U.S. Department of Education  
Assistant Secretary for Civil Rights  
Kenneth L. Marcus  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
1-800-421-3481  
[OCR@ed.gov](mailto:OCR@ed.gov)

## III. DEFINITIONS

- a. **Business Days** means Monday through Friday, except for federal or state holidays and any day in which the institution is closed due to inclement weather, emergency, or scheduled breaks in the school's academic calendar.
- b. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment, as defined above.
- c. **Consent** means a voluntary positive agreement between the participants to engage in specific sexual activity.
- d. **Dating Violence** means violence committed by a person

Who is or has been in a social relationship of a romantic or intimate nature with the victim; and  
Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship.
  - The type of relationship.
  - The frequency of interaction between the persons involved in the relationship
- e. **Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- f. **Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the recipient investigate the allegation of sexual harassment.
- g. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, as defined above.
- h. **Sexual Assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
- i. **Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:
1. An employee of the institution conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct;
  2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education programs or activities; or
  3. As defined below, sexual assault, domestic violence, dating violence, or stalking.
- j. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
1. Fear for his or her safety or the safety of others; or
  2. Suffer substantial emotional distress.
- k. **Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual restrictions on contact between the parties, changes in work location, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures are available to the Complainant and Respondent regardless of whether the Complainant files a formal complaint.

## IV REPORTING AN ALLEGATION

**Title IX Coordinator** - Any individual – student, employee or third party - may make a report concerning sexual harassment or sex discrimination whether or not they are the victim if that behavior. Complainants and third parties are encouraged to report sexual harassment as soon as possible to allow the institution to respond promptly and effectively. Reports must be directed to the Title IX Coordinator. In cases where the allegation is against the Title IX Coordinator, the report may be made to the schools Director. Only the campus Title IX Coordinator and the Corporate Director has authority to issue corrective measures for an incident of sexual harassment or sex discrimination. Students and employees should not expect any action taken with respect to a complaint or report directed to any other the institution employee or faculty other than a Title IX Coordinator. The Title IX Coordinator at the institution is:

**Robert Hamlin**  
29 Greenmeadow Drive Timonium, MD 21093  
Timonium, MD 21093  
410-252-4481  
[fao@robertpaulacademy.com](mailto:fao@robertpaulacademy.com)

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The institution has designated the Title IX Coordinator to oversee the intake of complaints of sexual harassment at the institution. An individual who has experienced sexual misconduct has the right to choose whether or not to report the incident to the institution's Title IX Coordinator. The Title IX Coordinator is trained to assist individuals who report sexual misconduct and can provide information about resources and services available to students and employees, both on and off campus, including the availability of supportive measures.

**Confidentiality** - The Title IX Coordinator is not a confidential source of support. While he or she will address your complaint with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. The Title IX Coordinator will treat as confidential all information related to the provision of supportive measures, to the extent that such confidentiality does not interfere with the ability of the institution to provide the supportive measures. (See Section X for a complete description of the confidentiality policy)

**Report vs. Formal Complaint** - Making a **report** is different from filing a **formal complaint**. A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator. A report may be accompanied by a request for (1) supportive or interim measures; (2) no further action; (3) the initiation of the formal complaint process; and/or (4) a request to initiate an informal resolution process. Informal resolution can only occur after a formal complaint is filed. Filing a formal complaint initiates the institution formal Title IX grievance process.

**Criminal Complaint/Civil Actions** - A person who has experienced sexual harassment, as defined in Section II, above, or a person who witnesses sexual harassment, has the right to simultaneously file a complaint with the institution and to pursue a criminal complaint with law enforcement. Victims and witnesses of sexual harassment have the right to be assisted by the institution in notifying law enforcement authorities of sexual harassment or they can decline to notify such authorities. the institution may, however, have a statutory reporting obligation when it becomes aware of certain factual allegations. Parties may also have options to file civil actions in court or with administrative agencies.

**How to Make a Report** - If a student, employee or third party wishes to report an allegation of sexual harassment, he or she should submit any relevant information to the Title IX Coordinator in person, via email, via regular mail or by phone.

The Title IX Coordinator will try to defer to the Complainant's wishes whether to file a formal complaint. However, if the Title IX Coordinator determines that pursuing an investigation into the allegations is necessary for the safety of the community or other reasons, he or she may sign the formal complaint to initiate the grievance process notwithstanding the Complainant's decision not to pursue a formal complaint.

#### **IV. HOW TO FILE A FORMAL COMPLAINT**

To file a formal complaint, the Complainant must submit, in writing, allegations of sexual harassment against a Respondent and must request that the institution investigate the allegation of sexual harassment. Only the Complainant or Title IX Coordinator may file a formal complaint. Any person wishing to make formal complaint must submit it to the Title IX Coordinator in person, via email, via regular mail or by phone at:

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29 Greenmeadow Drive Timonium, MD 21093  
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**Formal Complaint vs. Report** - Filing a formal complaint initiates the institution's grievance process. Making a report is different from filing a formal complaint. A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator and can lead to the filing of a formal complaint. If a person wishes to report an allegation of sexual harassment, he or she may contact the Title IX Coordinator to make a Report (See Section IV above, Reporting an Allegation)

#### **V. INSTITUTION'S RESPONSE TO ACTUAL KNOWLEDGE OF SEXUAL HARRASSMENT**

**Supportive Measures** - Upon receiving a report, a formal complaint or notice of allegations of sexual harassment in an educational program or activity, the Title IX Coordinator will promptly respond to the Complainant/Alleged Victim to discuss the availability of supportive measures, consider his/her wishes with respect to the supportive measures and explain the process for filing a formal complaint.

The institution will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures

**Preliminary Inquiry/Actions** -The Title IX Coordinator, in consultation with others as necessary, will conduct an initial assessment of the conduct, the reporting party's desired course of action, and interim measures to protect the safety of the Complainant or the community. The goal is to prevent any hostile educational or workplace environment from developing at the institution. If a report made to the Title IX Coordinator involves a serious or immediate threat to the campus community, the institution will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the Complainant.

If a Complainant chooses to pursue a formal complaint, the institution must follow the grievance process outlined below, unless the Title IX Coordinator determines, after this preliminary inquiry, that the alleged conduct, even if proven, would not rise to the level of conduct prohibited by this policy for one of three reasons:

1. The alleged conduct did not occur in the scope of the institution's education program or activity, or
2. The alleged conduct does not meet this policy's definition of sexual harassment, or
3. The alleged conduct did not occur to a person located in the United States

**Scope of Education Programs or Activities** - For the purposes of the Title IX Coordinator's determination under Section VI of this policy statement, the scope of the institution's education program or activity includes locations, events, or circumstances over which the institution has exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and shall also include any building owned or controlled by a student organization that is officially recognized by the institution.

**Dismissal of Formal Complaint** - If the Title IX Coordinator makes a determination after this preliminary inquiry, that the alleged conduct, even if proven, would not rise to the level of conduct prohibited by this policy, the formal complaint will be dismissed, and the Complainant will be provided written notification of that decision, which will include the reasons for the dismissal. A determination that the alleged conduct does not warrant initiating the grievance process does not preclude the institution from taking action to address any prohibited conduct/actions under another provision of its Code of Conduct.

If the Complainant or Respondent is an employee of the institution or one of its affiliates, the Title IX Coordinator will notify the institution's General Counsel who is responsible for overseeing the institution's compliance with Title VII of the Civil Rights Act of 1964.

## **VI. INTERIM REMOVAL OF A RESPONDENT FROM EDUCATION PROGRAM OR ACTIVITY**

The Title IX Coordinator may remove a Respondent from his or her educational program or activity if the Title IX Coordinator determines that an immediate threat to the physical health or safety of any student or other individual arising from allegations of sexual harassment justifies removal.

If the Title IX Coordinator determines that allegations of sexual harassment justify removal, he or she will provide the Respondent with notice of the removal to the Respondent's institution's email address and the Respondent must immediately leave all campus activities and may not return at any time pending the resolution of the complaint. Within three (3) Business Days after the Title IX Coordinator sends notice, Respondent may challenge the removal decision provide a written explanation of why the sexual harassment allegations do not justify removal. The Title IX Coordinator will notify the Respondent within three (3) Business Days whether the challenge is successful and whether any alternative interim measures are warranted. A Respondent who has been removed from his/her programs or activities as an interim measure may not attend any institution activity or program while his/ her challenge to removal is pending.

The Title IX Coordinator may also place a non-student employee Respondent on administrative leave during the pendency of a grievance process.

## **VII. INFORMAL RESOLUTION**

After a formal complaint is filed and as an alternative to completing the institution's formal Title IX grievance process, the Complainant and Respondent may agree to resolve the complaint through an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. Informal resolution is not available to resolve allegations that the institution's employee sexually harassed a student.

Participation in an informal resolution process is entirely voluntary, and requires written consent from all parties, including the institution. The institution will not require a Complainant or Respondent to participate in informal resolution. However, once the parties and the institution agree to informal resolution, the institution will suspend its obligation to pursue the grievance process except to the extent necessary to facilitate the informal resolution process as agreed to by the parties and the institution.

At any time prior to the parties reaching an agreement on the resolution of the allegations, any party may withdraw from the informal resolution process and initiate or resume the grievance process.

If the parties and the institution agree to an informal resolution process, the Title IX Coordinator will provide the parties with a written notice disclosing (1) the allegations; (2) the requirements and procedures of the informal resolution process; (3) the circumstances under which the parties will be precluded from resuming a formal complaint arising from the same allegations; (4) notice that at any time prior to the parties' agreeable resolution of the allegations, any party has the right to withdraw from the informal resolution process and initiate or resume the grievance process; and (5) the records that will be maintained or could be shared during and after the informal resolution process.

In the event that the parties reach a mutually agreeable resolution of the complaint through the informal resolution process, the Title IX Coordinator will close and dismiss the Complaint.

## **VIII. RETALIATION**

The institution, any student, employee or other party involved in the alleged incident is prohibited from intimidating, threatening, coercing, discriminating, or retaliating in any way against any individual for the purpose of interfering with any right or privilege secured by Title IX or the Regulations of the Department of Education (34 C.F.R. § 106, et. seq.), or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any aspect of the grievance process.

Complaints alleging retaliation may be submitted to the Title IX Coordinator in the same manner as a report of sexual harassment. Or, if the allegations of retaliation are against the Title IX Coordinator, the complaint should be directed to Corporate Director.

## **X CONFIDENTIALITY**

The institution understands that those involved in the sexual harassment reporting and grievance process, including the parties, witnesses, and individuals who have made reports or complaints of sex harassment, have privacy rights, including rights governed under the Family Education Rights and Privacy Act. The institution will not disclose information relating to the reporting of sexual harassment and the grievance process unless it's pursuant to a lawful purpose, such as:

1. Where information is necessary to give fair notice of the allegations and to conduct the investigation, hearing, and appeal;
2. Where other institution officials have a need to know of the information in performing the institution's business;
3. Where the institution determines the information should be shared with law enforcement;
4. Where sharing information will reduce the risk of an immediate threat to the health and safety of others;
5. Where sharing information is necessary for the institution to comply with requests from government agencies and accreditors who review the institution's compliance with federal law, state law, and accreditation requirements;
6. As necessary to respond to a lawfully issued subpoena or legal request for information;
7. Where disclosure of the information is otherwise permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99.

## **XI CONFLICTS OF INTEREST**

No investigator or hearing decision-maker will make findings or determinations in a case in which they have a conflict of interest or bias. A party wishing to raise the issue of a potential conflict of interest or bias must notify the Title IX Coordinator of the bias or conflict of interest within two (2) Business Days of being advised of the identity of the investigator or decision-maker. The Title IX Coordinator will determine whether a conflict of interest exists. If a party believes that the Title IX Coordinator has a bias or conflict of interest, the party must notify the Corporate Director who will determine whether a conflict of interest or bias exists.

## XII GRIEVANCE PROCESS

Once the Title IX Coordinator determines that allegations in a formal complaint could, if proven, constitute sexual harassment, the institution will initiate its Title IX grievance process. The Title IX grievance process is designed to fairly investigate allegations of sexual harassment, determine responsibility for any alleged violations, and provide remedies designed to restore or preserve equal access to the institution's education programs and activities. The institution's Title IX grievance process will:

1. Treat Complainants and Respondents equitably;
2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness;
3. Presume that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

**Timeline for Resolution** -The institution will resolve all cases in a prompt and timely manner, however, the timeline will vary based on the circumstances of the case, including scheduled and unscheduled breaks in the academic calendar, availability of the parties and witnesses, scope of the investigation, need for interim actions, and unforeseen or exigent circumstances. The parties will be periodically updated on the status of their case. Stated timing requirements in this policy will be strictly enforced. Requests for extension are disfavored and will not be granted absent a showing of extraordinary circumstances. However, if a party believes circumstances require an extension of deadlines, he or she must notify the Title IX Coordinator before the passing of the deadline, in writing, explaining why the deadline must be extended. The Title IX Coordinator will decide whether the deadline should be extended. If a deadline is extended, it will be extended for all parties.

**Responsibility to Check Email** -Throughout the Title IX grievance process, the institution will send important notices and information to the parties' institution email accounts. It is each party's responsibility to frequently check his or her institution email account. Important deadlines are based on when the institution sends certain notices and/or information to a party's email account, and a party's failure to check his or her email is not a valid excuse for a missed deadline.

If a party is unable to access his or her institution email account, he or she must immediately notify the Title IX Coordinator to arrange for an alternate method of receiving notices and information. Unless and until the Title IX Coordinator receives such notice, a party will be deemed to have received all emails and attachments on the day they were sent.

**Standard of Proof** -The institution uses the preponderance of the evidence standard (more likely than not) in investigations of complaints of sexual harassment. This means that the investigation and hearing determine whether it is more likely than not that a violation of the policy occurred.

**Role of Advisors** -All parties may have an advisor of their choice to accompany them through the grievance process. A party's advisor may be, but is not required to be, an attorney. A party may have his or her advisor present at any meeting, interview, or other appearance the party is entitled to attend.

Advisors are expected to refrain from interfering in the investigation and resolution of a formal complaint and are required to act ethically, with integrity, and in good faith throughout the grievance process. If the Title IX Coordinator, an investigator, hearing decision-maker, or other campus official determines that an advisor is acting in a manner intended to improperly disrupt or interfere with the grievance process, the advisor will receive a warning. Any subsequent attempt to disrupt or interfere with the grievance process will result in the advisor's immediate removal from the proceedings, and he or she will be barred from further participation in the Title IX grievance process. Unless the Title IX Coordinator, investigator, decision-maker, or other campus official determines that an advisor's misconduct is part of a party's deliberate attempt to disrupt or delay the grievance process, the proceedings will be suspended to allow a party to replace his or her advisor.

Each party must have an advisor present at the hearing. As discussed in the Hearing Procedures, below, only advisors may ask a party or witness questions at a hearing. In advance of the hearing, a party may request that

the institution provide him or her with an advisor of the institution's choosing. Absent a showing of bias or a conflict of interest, a party has no right to object to an advisor provided by the institution.

**Consolidation of Formal Complaints** - The institution may consolidate formal complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where the grievance process involves more than one Complainant or more than one Respondent, references in this policy to "party," "Complainant," or Respondent" include the plural, as applicable.

**Notice of Formal Complaint** -Once a Title IX Coordinator determines that a formal complaint alleges a potential violation of this policy, the parties will receive notice that a formal complaint has been filed and that the institution has initiated its grievance process. The notice will include:

1. The identities of the parties involved in the incident, if known;
2. The conduct allegedly constituting sexual harassment, as defined in this policy, if known;
3. The date and location of the incident, if known;
4. 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;
5. An explanation of the parties' right to have an advisor present throughout the grievance process; and
6. An explanation of the institution's prohibition against knowingly making false statements or knowingly submitting false information during the grievance process.

**Investigation** -After notifying the parties of the formal complaint and the initiation of the grievance process, the institution will appoint one or more trained investigators to interview the parties and gather evidence as necessary. Investigators will have received training on the following:

1. The definition of sexual harassment, as defined in this policy;
2. The scope of the institution's education programs and activities;
3. How to conduct an investigation pursuant to this policy;
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
5. Issues of relevance to create an investigative report that fairly summarizes the relevant evidence.

During the investigation, the parties will have an equal opportunity to present witnesses, including expert witnesses, and other inculpatory and exculpatory evidence.

When a party's participation in the investigation is invited or expected, the institution or the investigator will provide written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings. The written notice will be given at least three (3) Business Days in advance of the party's expected participation. Pursuant to the limits on the role of advisors, discussed above, each party will be entitled to have an advisor of his or her choosing present at any meeting or interview to which the party is invited or expected to attend.

Neither the investigator nor the institution may 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 that party, unless the institution or the investigator obtains that party's voluntary, written consent to do so. If the party is under 18 years old, written consent must be given by the party's parent or guardian.

The institution or the investigator may modify the list of allegations based on additional information learned during investigation. In that event, the parties will receive prior notice of the new allegations prior to any investigation of the new allegations.

Prior to the conclusion of the investigation, the institution will provide the parties and their advisors the opportunity to inspect and review any evidence obtained during the investigation that is directly related to the allegations in the formal complaint. The parties will then have ten (10) Business Days to submit a written

response to the Title IX Coordinator, which the investigator will consider prior to completing his or her investigative report.

At the conclusion of the investigation, the investigator will prepare an investigative report that fairly summarizes relevant evidence. The report will be simultaneously provided to all parties and their advisors at least ten (10) Business Days prior to the hearing, if a hearing is required. The parties may submit a written response to the investigative report for consideration by the hearing decision-maker. However, a response to the investigative report must be received by the Title IX Coordinator no later than five (5) Business Days before the hearing. Responses received after that deadline will not be considered by the hearing decision-maker. The Title IX Coordinator will simultaneously provide all submitted written responses to the parties at least three (3) Business Days before the hearing.

**Dismissal of a Formal Complaint** - If at any time during the investigation, the institution determines that any conduct alleged in the formal complaint (1) would not constitute sexual harassment, as defined in this policy, even if proved, (2) did not occur in a the institution education program or activity, or (3) did not occur against a person in the United States, the institution must dismiss the formal complaint with regard to that conduct. If other conduct is alleged in the formal complaint, the grievance process will continue with regard to those allegations only.

The institution may also dismiss the formal complaint, or any allegations in the formal complaint, if at any time during the investigation or hearing (1) the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations in the formal complaint; (2) the Respondent is no longer enrolled at, or employed by, the institution; or (3) specific circumstances prevent the institution or the investigator from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the institution dismisses a formal complaint, or any allegations in a formal complaint, it will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties.

**Live Hearing - *Decision-Maker*:**

Following the conclusion of the investigation and the parties' opportunity to review the investigative report, the institution's grievance process provides for a live hearing. The hearing will be conducted by a decision-maker, who will have received training on the following:

1. The definition of sexual harassment, as defined in this policy;
2. The scope of the institution's education programs and activities;
3. How to conduct live hearings pursuant to this policy;
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
5. Issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant; and
6. Any technology to be used at the live hearing.

The institution will be responsible for appointing the decision-maker for the hearing, who may or may not be an employee of the institution. The decision-maker will be free of any conflicts of interest, pursuant to the conflict of interest requirements of this policy. The identity of the decision-maker will be provided to the parties at least ten (10) Business Days prior to the hearing. If any party believes that the decision-maker is subject to bias or a conflict of interest, he or she must submit a written objection to the Title IX Coordinator within two (2) Business Days of notification of the identity of the decision-maker, stating the basis for the objection. If the Title IX Coordinator determines that the decision-maker is subject to bias or a conflict of interest that justifies removal of the decision-maker, the Title IX Coordinator will name a new decision-maker. In that event, the hearing may be rescheduled to allow for a reasonable time to ensure proper training and an opportunity for the parties to object to the new decision-maker on the grounds of bias or conflict of interest, pursuant to the requirements above.

**Live Hearing - Time and Location:**

The hearing will be conducted at a location within a reasonable distance of the institution. The Title IX Coordinator will notify the parties of the time and location of the hearing at least ten (10) Business Days prior to the hearing. Parties and their advisors are expected to adjust their schedules to attend the hearing. Hearings will not be rescheduled absent emergencies or extraordinary circumstances.

Either party may request that the hearing be conducted with parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or the witness answering questions.

The institution may also, at its discretion, allow any or all parties, witnesses, or other participants appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other.

**Live Hearing - Hearing Procedure:**

**Advisor** -Each party must have his or her own advisor present at the hearing. The role of the advisor is to ask relevant questions of the other party and other witnesses as described below. Advisors may counsel the party they represent during the hearing, however, advisors may not make opening or closing statements on behalf their represented party or raise or make objections on the record. Failure to comply with these requirements may be deemed by the hearing officer as interference with the orderly conduct of the hearing and may subject the advisor to removal. If a party does not have an advisor present at the hearing, the institution will provide an advisor of the institution's choosing at no cost to the party. contract out the formal investigation (to a training investigator) , the hearing (to an attorney or retired judge) and the appeals process (to an attorney or retired judge), you really just need to focus on training up your campus' Title IX Coordinator on how to handle complaints when they are received. Feel free to call me if you have any questions.

**Cross Examination** - Each party will have the opportunity to have his or her advisor cross-examine the other party and any witnesses by asking relevant questions and follow-up questions, including that challenging credibility. Only the parties' advisors may ask questions of testifying witnesses, and the questioning must be conducted orally, and in real time. The decision-maker will preside over the hearing, and he or she will determine the order of witnesses.

**Relevancy of Questions/Evidence** -Before a party or witness answers a question, the decision-maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Advisors may not present arguments in favor or against the exclusion of any proposed question. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence 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.

If Respondent intends to introduce evidence of the Complainant's past sexual behavior, Respondent must provide notice to the Title IX Coordinator and decision-maker at least five (5) Business Days in advance of the hearing accompanied by a written motion that specifically describes the evidence and states the purpose for which it is to be offered. The Title IX Coordinator will provide a copy of the notice and motion to the Complainant. Before admitting evidence under this rule, the decision-maker must conduct an in-camera hearing on the motion and give the parties a right to attend and be heard, through their advisors. The motion, related materials, and the record of the motion hearing must be and remain confidential.

All evidence provided to the parties prior the investigator's completion of the investigative report will be available at the hearing. Each party may refer to such evidence during the hearing, including for purposes of asking questions to other parties or witnesses.

**Recognized Privileges** - The decision-maker will recognize all legally recognized privileges, such as the attorney-client and work-product privilege, unless the holder of the privilege has waived the privilege. It is the responsibility of a party's advisor to invoke any privileges at the hearing. Failure to timely invoke a privilege will constitute a waiver.

**Effect of Non-Participation** - If a party or witness does not submit to questions at the hearing, the decision-maker must not rely on any prior statement of that party or witness in reaching a determination about responsibility. The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions.

**Record of Hearing** - Hearings will be recorded with an audio recording, audiovisual recording, or by transcript. The recording or transcript will be made available to all parties for inspection and review.

**Determining Responsibility** - Following the hearing, the decision-maker will issue a written determination deciding whether the Respondent is responsible for the allegations of sexual harassment. The decision-maker will base his or her determination on a review of the relevant and admissible evidence obtained during the investigation or hearing, the investigative report, and hearing testimony. The written determination will be sent to each party's institution email account. Important appeal deadlines will be based on when the written determination is sent by the institution, so the parties are strongly encouraged to carefully monitor their email correspondence for the determination.

The decision-maker will apply the preponderance of the evidence standard (more likely than not) in reaching his or her determination. The written determination will include:

1. An identification of the allegations potentially constituting sexual harassment as defined in this policy;
2. A description of the procedural steps taken, from receipt of the formal complaint by the institution 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;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the recipient's code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, and disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the institution's education program or activity will be provided by the institution to the Complainant; and
6. The procedures and permissible bases for the Complainant and Respondent to appeal.

**Range of Disciplinary Sanctions** – Sanctions for violations of this policy will vary based on the facts and circumstances of each case. In determining the appropriate sanctions, the decision-maker may consider factors such as the Respondent's prior history of sexual harassment or misconduct, the severity of the conduct, the frequency of the conduct, and the overall effect on the school community. For students, sanctions can range from a warning up to, and including, expulsion. For employees, sanctions can range from a warning up to, and including termination.

**Notice of Decision** - The written determination will be simultaneously provided to the parties' the institution email accounts. The parties will then have seven (7) Business Days to notify the Title IX Coordinator if they wish to appeal the determination regarding responsibility (see Appeal, below). The determination regarding responsibility becomes final either (1) seven Business Days after issuance of the written determination regarding responsibility, if no appeal is filed, or (2) if an appeal is filed, on the date the institution provides a written determination on the results of an appeal.

### **Appeal**

Both the Complainant and the Respondent may appeal the determination regarding responsibility, the dismissal of any allegation(s) of a formal complaint, and/or sanctions. The institution will appoint an Appeal Officer after receipt of the appeal. All appeals will be decided by the Appeal Officer. Once the Appeal Officer issues his/her written determination on the results of the appeal, all matters are considered final and no further appeals will be considered.

If a party wishes to appeal, he/she must send a notice of his/her intent to appeal, by email, to the Title IX Coordinator within seven (7) Business Days after the institution sends the determination to the parties' institution's email accounts. If a party does not submit notice of appeal within the seven-day deadline, he or

she will lose any right to appeal the written determination. The notice of intent to appeal must state the specific ground(s) for the appeal.

An appeal is not intended to be a rehearing of the allegations in the formal complaint. Disagreement with the findings or sanctions is not a valid ground for an appeal. The institution will only consider an appeal on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence, that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. The Title IX Coordinator, investigator(s), or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
4. Ineffective assistance of an advisor.

If a notice of intent to appeal does not reference one or more of these three grounds for appeal, the appeal will be not be considered.

A timely appeal will stay the imposition of sanctions. Any interim measures imposed before or during the grievance process will remain in effect pending the resolution of the appeal.

Once the Title IX Coordinator receives a valid notice of intent to appeal, the Title IX Coordinator will notify all parties of the appeal, the ground(s) on which the appeal is sought, and the procedures for the appeal. Once the parties receive notice of the appeal from the Title IX Coordinator, the parties will have seven (7) Business Days to submit a written statement and any new evidence to Appeal Officer in support of, or challenging, the outcome. Any party who does not timely submit his or her written statement or new evidence will be barred from doing so absent a showing of exceptional circumstances. It will be in the sole discretion of the Appeal Officer whether to allow any extensions in the time to submit a written statement or new evidence.

The Appeal Officer will review the timely submitted written statements, any new evidence and the record as appropriate. Only facts or arguments concerning the above-listed grounds for an appeal will be considered in rendering his/her decision. Once a decision is made, he/she will issue the written decision simultaneously to each party's institution email account, describing the result of the appeal and the rationale for the result. At this point, all matter will be final and no further appeals will be considered.