



University Policy on Prohibited Discrimination, Harassment and Retaliation Other Than Sex

Approved By: President; Endorsed by Board of Trustees

Issued: 4/1/2003

Revised: 10/1/2017

Responsible Offices:

Provost, Student Affairs, Vice President for Finance and Administration/Treasurer

Related Policies:

- [Non-Discrimination / Equal Employment Opportunity Statement](#)
- [Sexual Discrimination and Misconduct Policy](#)
- [Consensual Relationships](#)

Additional Reference:

- [Resources Contact Information](#)

I. Policy Statement

Under the Washington and Lee University's nondiscrimination statement, students, faculty, and staff have the right to be free from prohibited discrimination, harassment, and retaliation within the University community. Specifically, the University prohibits and this policy addresses discrimination, including harassment, on the basis of race, color, religion, national or ethnic origin, age, disability, veteran's status, and genetic information in its educational programs and activities and with regard to employment. Additionally, the University prohibits retaliation against any individual who brings a good faith complaint under this policy or is involved in the complaint process. Such conduct violates not only University policy and expectations of personal integrity and respect for others, but may also violate state and federal law.

Students, faculty, and staff found to have violated this policy will be disciplined appropriately, up to and including termination from employment or dismissal from the University.

The University also prohibits discrimination, harassment and retaliation on the basis of sex and gender, including gender identity, gender expression, and sexual orientation. The policy and procedures for complaints involving sexual harassment, sexual discrimination, sexual assault, stalking, dating and domestic violence, and retaliation are described in the separate Sexual Discrimination and Misconduct Policy (go.wlu.edu/OGC/SexualMisconductPolicy).

A. Applicability

This policy applies to all members of the Washington and Lee community, including students, faculty, and staff, as well as consultants, volunteers, vendors, and others engaged in business with the University. Visitors to and guests of Washington and Lee University are both protected by this policy and subject to its prohibitions. Visitors and guests may report violations of this policy committed against them by members of the W&L community. Visitors and guests may also be permanently forbidden from entering any part of the campus or attending any W&L sponsored events.

This policy may be applied to conduct that takes place from the time a person enrolls at the University or accepts employment or volunteer duties (including academic term breaks and periods between terms and semesters) and continues until the student withdraws or graduates, the employee ceases employment, or the volunteer ceases to provide services for the University.

This policy pertains to acts of prohibited conduct committed by or against students, employees, and third parties when:

- The conduct occurs on the campus or other property owned or controlled by the University;
- The conduct occurs in the course of University-related business travel or off-campus programs, such as (but not limited to) domestic or international academic programs, field trips, spring term coursework, study-abroad programs, internship programs, work-related conferences, etc.;
- The conduct has a continuing adverse effect for a complainant^[footnote/] while on campus or other property owned or controlled by the University or in any University employment or education program or activity; or
- The conduct is committed by a student and occurs in the City of Lexington, the City of Buena Vista, or the County of Rockbridge.

This policy also applies to behavior conducted online, including via e-mail. Postings on blogs, web page entries, social media sites, and other similar online postings can subject an individual or group to allegations of violations of this policy. The University

does not regularly search for this information, but action may be taken by the University if and when such information is brought to the attention of the University.

Where the date of the reported prohibited conduct precedes the effective date of this policy, the definitions of prohibited conduct in existence at the time of the alleged incident(s) will be used. However, the procedures set forth in this policy will be used to investigate and resolve all reports made on or after the effective date of this policy, regardless of when the incident(s) occurred.

II. Prohibited Conduct

W&L prohibits and will not tolerate discrimination or harassment based on a protected category or retaliation in any form. Such violations are subject to any combination of sanctions, including suspension, dismissal, or termination of employment.

A. Prohibited Discrimination

Unequal treatment based on a listed protected category that is sufficiently serious to unreasonably interfere with or limit the individual's opportunity to participate in or benefit from a University program or activity or that otherwise adversely affects a term or condition of an individual's education or living environment.

B. Prohibited Harassment

In addition to other forms of discriminatory conduct based on a listed protected category that would constitute a violation of this policy, unwelcome verbal or physical conduct by or toward a member of the University community on the basis of one or more of the listed protected categories may constitute prohibited harassment, depending on the circumstances of each case. Prohibited harassment can take many forms, such as words, visual images, gestures, or other verbal or physical conduct, whether in person, by telephone, or other electronic means.

To constitute harassment in violation of this policy there must be a finding that the conduct was: (1) based on one or more of the protected categories mentioned above; (2) unwelcome and offensive; and (3) either severe (in the case of isolated incidents) or repeated and pervasive such that it had the purpose or effect of substantially interfering with an individual's work or academic performance, or of creating an intimidating, hostile or abusive work or educational environment at the University. Harassment may also occur if submission to conduct described in (1) and (2) above is an implicit or explicit term or condition of employment, education, or participation in a

campus activity or if submission to or rejection of such conduct is used as the basis for a decision regarding any University operation or program.

W&L strongly urges all members of the campus community to play a part in discouraging, responding to, and preventing the types of misconduct prohibited by this policy. W&L encourages the community to speak up when an incident occurs and to report misconduct. Any individual who feels he or she has been subjected to prohibited conduct under this policy is encouraged to seek assistance and resolution. W&L's complaint procedures provide a variety of ways by which an individual may proceed, including informal or formal resolution internally through the University, or external criminal or civil processes where the conduct may amount to unlawful discrimination, harassment or retaliation.

C. Retaliation

The University will make every reasonable effort to protect from retaliation individuals who believe themselves to be the object of discrimination, harassment, and/or who are involved in a complaint process. Retaliation, whether by an individual, a group of individuals, or an organization, against anyone who makes an inquiry about discrimination or harassment, or who is involved in a complaint process, is prohibited and constitutes a violation of this policy.

Retaliation includes intimidating, threatening, coercing, or in any way discriminating against any person or group for exercising rights under this policy.

Actions are considered retaliatory if they (1) are in response to a good faith disclosure of real or perceived University-related misconduct or participation in an investigation of University-related misconduct, and (2) would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy or participating in the complaint processes under this policy.

Retaliation may be present even where there is a finding of "Not Responsible" on the allegations of misconduct prohibited by this policy. Community members engaging in retaliation will be subject to disciplinary action, whether such retaliatory acts are implicit or explicit, or committed directly or indirectly. The University will make every reasonable effort to stop retaliation immediately, to provide remedies to victims of retaliation, and to sanction the perpetrators of retaliation as appropriate. For employees, discipline for retaliation will be handled by the Executive Director of Human Resources, the Provost's office, or a department head. For students, the Vice President for Student Affairs and Dean of Students has the discretion to address retaliation by taking administrative actions, disciplinary or otherwise, or referring the matter for a formal conduct charge. Notwithstanding the foregoing, and regardless of

the manner in which any alleged retaliation is addressed, before any discipline is imposed, the person accused of retaliation will receive notice and an opportunity to be heard, as appropriate under the circumstances.

III. Privacy

The University will treat inquiries and complaints about prohibited discrimination, harassment, or retaliation private to the extent possible, in accordance with the complaint procedures referenced herein. In some circumstances, the University may be required to act on information it has received even if the person providing the information chooses not to pursue a complaint.

IV. False Reporting

A complainant who makes a report that is later found to have been intentionally false or made maliciously without regard for truth, or anyone proven to have intentionally given false information during the course of an investigation or disciplinary proceeding may be subject to disciplinary action under the University's Honor System or disciplinary action under the appropriate employee disciplinary policy and may also violate state criminal statutes and civil defamation laws. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation and/or hearing decision. An allegation of false reporting cannot be investigated or heard until the underlying allegations have been resolved by the relevant conduct body.

V. Relation to Federal Law

Washington and Lee University's policy against prohibited discrimination, harassment, and retaliation is consistent with Titles VI and VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, and the Genetic Information Non-Discrimination Act of 2008. In addition to contacting the complaint resources specified in this policy, any person with concerns regarding the University's response to his or her complaint may contact the Regional Civil Rights Director, U.S. Department of Education, Office for Civil Rights, District of Columbia Office, 1100 Pennsylvania Ave., NW, Room 316, P.O. Box 14620, Washington, DC 20044-4620, (202) 786-0500 [students]; or the Washington Field Office of the U.S. Equal Employment Opportunity Commission, 1400 L. Street, NW, Suite 200, Washington, D.C. 20005, (202) 275-7377 [employees].

VI. Procedures for Complaints Against Students

The following procedures will be used if the respondent is a student at the time of the report. If the respondent is both a student and an employee:

- The student resolution procedures will apply if the respondent is a full-time student but not a full-time employee;
- The employee resolution procedures will apply if the respondent is a full-time employee but not a full-time student; or
- If there is a question as to the predominant role of the respondent, the Title IX Coordinator, with consultation with others as necessary, will determine which of the procedures applies based on the facts and circumstances (such as which role predominates in the context of the conduct).

Note: The procedures outlined here for complaints of discrimination, harassment, or retaliation against students pertain to obtaining information or filing a complaint with the University. They are not intended in any way to preclude any criminal or civil remedies that may also be available to a person who has been the object of unlawful discrimination, harassment, or retaliation under state or federal law.

A. Making a Report

Individuals seeking information about the University Policy on Prohibited Discrimination, Harassment and Retaliation Other Than Sex or who wish to bring a complaint under the policy may contact the Title IX Coordinator, any of the Student Affairs Staff or Other Student Advisers identified in the Contact Guide for the Policy (go.wlu.edu/OGC/ResourcesContactInfo), or another Student Affairs resource (e.g., Student Health and Counseling Services, Public Safety, or Residence Life Staff). An individual may also report a complaint through the Silent Witness-Anonymous Online Crime Report website (<http://go.wlu.edu/ReportCrime>).

The Title IX Coordinator or other Student Affairs Staff member can work with students on matters concerning allegations of prohibited discrimination, harassment, or retaliation by or against students. They can inform individuals of the various criminal, civil, and University conduct options for formal complaints, including the availability of Advisors.

The Title IX Coordinator and other member of the Student Affairs Staff can also inform individuals of various strategies for informal resolution and are trained to conduct, assist, and oversee such efforts. The Title IX Coordinator and other members of the Student Affairs Staff are also available to meet with students accused of prohibited discrimination/harassment or retaliation to inform them of the various strategies for informal resolution, explain the University disciplinary procedures and the availability of Advisors for such proceedings.

Because it is often difficult to determine the facts of an incident long after it has occurred, complaints should be brought as soon as possible after the incident giving rise to the complaint. However, there is no time limit on reporting violations of this policy. The Title IX Coordinator or other Student Affairs Staff member can provide a complainant, other members of the University community, or others outside the University community with information concerning Washington and Lee's procedures for addressing complaints of prohibited discrimination, harassment, or retaliation covered by this policy.

B. Interim Measures

Upon receipt of a report of discrimination, harassment, or retaliation covered by this policy, the Title IX Coordinator may issue a no-contact directive between or among the parties or witnesses to create a level of reassurance throughout the process and may take other interim measures, or refer the complainant or respondent to the appropriate campus administrator(s) to take prompt interim measures that may be appropriate, including but not limited to a change in housing or class assignments. Interim measures may be imposed regardless of whether formal disciplinary action is sought by the complainant or the University.

A complainant or respondent may request separation or other protection, or the University may choose to impose interim measures at its discretion to ensure the safety of all parties, the broader University community, and/or the integrity of the investigative and/or resolution process. The imposition of an interim measure assumes no determination of responsibility and is not a form of discipline.

All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by an interim measure. The University will take immediate action to enforce a previously implemented measure. The University can impose disciplinary sanctions for failing to abide by a University-imposed measure. For employees or volunteers, discipline will be handled by the Executive Director of Human Resources, the Provost's office, or a department head. For students, the Vice President for Student Affairs and Dean of Students has the discretion to address a violation of an interim measure by taking administrative actions, disciplinary or otherwise, or referring the matter for a formal conduct charge. Notwithstanding the foregoing, and regardless of the manner in which any alleged violation of an interim measure is addressed, before any discipline is imposed, the person accused of a violation of an interim measure will receive notice and an opportunity to be heard, as appropriate under the circumstances.

C. Informal Resolution

Informal resolution strategies may include, but are not limited to: hearing a complaint without taking further action; speaking to a respondent on behalf of a complainant; guiding a mediated discussion; targeted or broad-based educational programming or training; and handling direct resolution between a complainant and respondent.

D. Conduct Proceeding to Harassment and Sexual Misconduct Board

If a complaint cannot be resolved otherwise, a complainant may initiate a conduct proceeding to be addressed by the Harassment and Sexual Misconduct Board (HSMB). Alternatively, a conduct proceeding may be initiated without pursuing other resolution options. Any member of the University community, any complainant outside the University community (such as a student from another institution), or the University itself (through the Vice President for Student Affairs and Dean of Students, or designee), may also initiate a conduct proceeding to the HSMB. The HSMB is authorized to hear and adjudicate University judicial complaints of the following matters:

- Allegations of student conduct in violation of this policy;
- Allegations of student conduct in violation of the University's Sexual Discrimination and Misconduct Policy;

The Vice President for Student Affairs and Dean of Students and/or the Title IX Coordinator will decide whether the matter falls within the HSMB's jurisdiction.

E. Investigation

To conduct an investigation, the University will designate an investigation team. The University will typically use a team of two investigators. Any investigator must be impartial and free of any conflict of interest. One of the investigators may be the Title IX Coordinator.

The investigation team will conduct the investigation in a manner appropriate in light of the circumstances of the case. It will coordinate the gathering of information from the complainant, the respondent, and any other individuals who may have information relevant to the determination. It will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. The complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or

have information relevant to the incident; they cannot be participating solely to speak about an individual's character.

The investigation is designed to provide a fair and reliable gathering of the facts. It will be thorough, impartial, and fair, and all individuals will be treated with sensitivity and respect. The investigation is a neutral fact-gathering process. The respondent is presumed to be not responsible; this presumption may be overcome only where a Harassment and Sexual Misconduct Board hearing panel concludes that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the respondent violated the policy.

The University will seek to complete the investigation within thirty (30) calendar days from the start of the investigation, but this time frame may be extended depending on the complexity of the circumstances of each case.

The Title IX Coordinator will retain copies of all reports generated as a result of investigations. The University will keep these records private to the extent permitted by law.

Although all witnesses, the complainant, and the respondent are expected to participate in the investigative process, neither party is required to participate in the investigation or any form of resolution under these procedures. If a party chooses not to participate in an investigation, the investigation and potential disciplinary proceedings may still proceed.

In order to protect the integrity of the investigation, none of the parties involved in the investigation should discuss what they shared with investigators to any witness or potential witness while proceedings are pending.

1. Review of Investigation Report

At the conclusion of the investigation, the investigation team will prepare a written report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information. The investigation team will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation. In general, the investigation team may redact information that is immaterial. The team may also delete statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

Before the team finalizes the report, it will give the complainant and respondent the opportunity to review the investigation report. The complainant and respondent may

submit any additional comments, request changes, or request further investigation from the investigation team.

After giving the parties the opportunity to comment on the report orally or in writing, the team will make changes to the investigation report based on those comments at the discretion of the investigation team. The team will then submit the report to the designated Chair of the Harassment and Sexual Misconduct Board for the specific matter.

F. Harassment and Sexual Misconduct Board (HSMB)

1. Composition of the HSMB

The Harassment and Sexual Misconduct Board (HSMB) is the body that determines responsibility and, if warranted, administers sanctions and/or discipline against a respondent. The HSMB is made up of three (3) individuals who may serve in the role of Chair of a HSMB hearing panel and up to fourteen (14) administrators who may serve as members of a HSMB hearing panel or appeal panel. Each of these administrators is appointed by the President and is trained in both broad conduct procedures and in understanding specific prohibited discrimination, harassment, and retaliation.

2. Role of the Chair of the HSMB

From the pool of three (3) administrators appointed to serve as Chairs of the HSMB, one of them will be designated to serve as the Chair for a particular HSMB panel. Any Chair designated to serve as Chair in a case must be impartial and free of any conflict of interest. The Chair issues the formal charge, and in the event that a formal charge is issued, selects and convenes a hearing panel of the HSMB, and oversees the Pre-Hearing Conference and the hearing.

The Chair shall determine the order of the proceedings, the relevancy of witnesses and evidence, and the nature of questioning. The Chair shall exercise reasonable discretion in dealing with all matters not expressly covered under this Policy and shall have the authority to make the final determination as to all procedural questions or issues that may arise.

3. Composition and Role of the HSMB Hearing Panel

If a charge is issued against a respondent, the designated Chair of the HSMB for that particular matter shall select and convene a three (3) member HSMB hearing panel from the pool of up to fourteen (14) specially trained administrators appointed by the President. Each member of the HSMB panel must be impartial and free of any conflict of interest. HSMB members who have reason to believe they cannot make an

objective determination must recuse themselves from the process. The HSMB hearing panel will hear the case and make a finding, by a majority vote, as to whether the respondent is responsible for conduct in violation of this policy.

G. Determination to Proceed to a HSMB Hearing

Based on the investigation report, the Chair of the HSMB will determine whether to formally charge the respondent and will notify the parties. A charge will be issued if it is plausible and more than a sheer possibility that the complainant's factual allegations could constitute a violation of this policy. Absent extenuating circumstances, the decision whether to formally charge the respondent will be made within two (2) calendar days after the Chair receives the investigation report.

The formal charge(s) will state the subject matter of the complaint, the name of the complainant, and the approximate date and/or timeframe for the alleged conduct.

Additionally, a charge of for Conduct Unbecoming of a Washington and Lee Student may accompany any charge.

The Chair of the HSMB may deliver notice of the charge by one or more of the following methods:

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

Once a formal charge has been issued, the respondent will answer the charge as "Responsible," "No Contest," or "Not Responsible." If the respondent answers "Responsible" or "No Contest," the charge goes to a HSMB hearing panel to determine an appropriate sanction. The respondent must answer the charge before or during the Pre-Hearing Conference, which is held, absent extraordinary circumstances, within seven (7) calendar days after the issuance of the formal charge document.

Upon the issuance of a formal change, the investigation report and related appendices will be made available to the parties for their review.

H. Pre-Hearing Conference

The Chair of the HSMB will hold separate Pre-Hearing Conferences with the parties and their Advisors to address evidentiary or other matters before the investigation report is presented to the HSMB hearing panel.

At the Pre-Hearing Conference, the parties may submit a written request outlining any additional investigation steps they believe are necessary, including but not limited to:

- Requests for follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the investigators to pose to witnesses, the complainant or the respondent;
- Requesting a follow-up interview with the investigators to clarify or provide any additional information that such party believes is relevant to the investigation or to seek clarification from the investigators on aspects of the investigation report.
- Identifying any new witnesses who should be interviewed (including a description of what topics/issues the witness should be asked to address); and/or
- Explaining any additional evidentiary materials that should be collected and reviewed to the extent that such items are reasonably available.

At the Pre-Hearing Conference, the parties may also request in writing that portions of any witness notes be redacted or changes be made to the investigation report. The Chair, in consultation with the investigators, will make the final determination on what changes will be made to the investigation report.

Additionally, parties will be informed of the composition of the proposed HSMB hearing panel and be allowed to object to the appointment of any of the HSMB panel members by providing, articulable grounds of suspected bias, conflict of interest, or an inability to be fair and impartial. The objection should be directed to the Chair of the HSMB at the Pre-Hearing Conference. The Chair will make the final determination on a member's ability to serve on a HSMB hearing panel.

If either party wishes to call witnesses at the hearing, the following must be submitted to the Chair of the HSMB in writing at the Pre-Hearing Conference:

- The names of any witness the party intends to call; and
- A summary of why the witness' physical presence at the hearing is relevant to making a decision about responsibility at the hearing.

The Chair of the HSMB will determine whether there is sufficient justification for asking a witness to attend in person or whether the information can be adequately summarized by the witness statement.

Absent extenuating circumstances, the Pre-Hearing Conferences will be held within seven (7) calendar days of issuance of the charge document.

I. Hearing Procedures

A hearing will be held in a timely manner; assuming no extraordinary circumstances, within fourteen (14) calendar days of issuance of the formal charge.

All hearings are closed to the public and may not be audio or video-recorded. The complainant and the respondent have the right to be present during the hearing. Neither party is required to participate in the hearing in order for the hearing to proceed. If either party is not in attendance, the hearing may still proceed, findings may still be made, and sanctions may still be imposed.

The HSMB hearing panel will review the investigation report prior to the hearing. During the hearing, the HSMB hearing panel may question the complainant, the respondent, any witnesses called, and/or the investigators, and examine related information and evidence. The HSMB hearing panel shall restrict their questions to matters that the Chair deems relevant to the specific case.

The parties cannot verbally pose questions to each other or to witnesses. However, the parties may submit written questions to the Chair of the HSMB to ask on their behalf to the relevant party or witness. The Chair of the HSMB will screen the questions and will not ask questions that violate University policy and prior evidentiary decisions made by the Chair, or questions that are irrelevant or repetitive. Additionally, the Chair has discretion to change the wording of the question, provided that the substance of the question remains the same.

Both a complainant and respondent have the right to provide relevant information during the hearing. However, parties cannot call witnesses or present information at the hearing that could reasonably have been provided during an investigation or during the Pre-Hearing Conference. If information produced during the hearing discloses additional tangible evidence or witnesses with relevant information that could not have reasonably been provided during an investigation or Pre-Hearing Conference, the Chair, in his or her sole discretion, may obtain that evidence or call those witnesses to testify.

The hearing is private to protect the privacy interests of all involved. Any HSMB hearing panel member, the Chair, Investigators, and Advisors are expected to maintain the privacy of the proceedings except where disclosure may be authorized or mandated by law or authorized in connection with duties on behalf of the University.

After considering all of the relevant information, the HSMB hearing panel members will deliberate and make a finding by a preponderance of the evidence as to whether the respondent is responsible for conduct in violation of this policy. At least two (2) members must vote "responsible" for a finding of responsibility.

At any time during the hearing process, the respondent may choose to agree to a finding of responsibility relating to some or all of the charged conduct.

If the HSMB does not find that the respondent violated the University's Policy on Prohibited Discrimination, Harassment, and Retaliation Other Than Sex, but finds that the Respondent's conduct was unacceptable and contrary to that expected of a Washington and Lee student, it may make a finding of "Conduct Unbecoming of a Washington and Lee Student," if separately charged. Additionally, if the HSMB finds there is reasonable evidence that another University policy may have been violated, it may refer that information to the Office of the Dean of Students.

J. Imposition of Sanction

If the respondent is found "Responsible" or agrees to a finding of responsibility, the HSMB hearing panel will impose a sanction. At least two panel members must vote in favor of the imposition of each sanction or combination of sanctions.

The HSMB hearing panel shall determine the appropriate sanction (or combination of sanctions) in accordance with the Sanction Guideline Matrix. The HSMB may select among the sanctions within the range set forth in the Sanction Guideline matrix, as factors in each case may warrant. It may also combine various sanction options to produce a package of appropriate sanctions. The HSMB shall also consider the sanction recommendation of the complainant and respondent.

1. Sanction Guideline Matrix

Prohibited Behavior	Discrimination; Harassment; Retaliation; Conduct Unbecoming
Range of Sanctions	Dismissal; Suspension; Probation; Community Service; Educational/Counseling Consultation; Loss of Privileges (denial of the use of certain University facilities or the right to participate in certain activities or to exercise certain privileges for a designated period of time); On Campus Residential Relocation; Changing Academic Schedule; Any Other Sanction Deemed Appropriate Under the Circumstances

In considering the appropriate sanction, the HSMB hearing panel will consider the following factors:

- The respondent's prior discipline history;
- How the University has sanctioned similar incidents in the past;
- The nature and violence of the conduct at issue;
- The impact of the conduct on the complainant;
- The impact of the conduct on the community, its members, or its property;
- Whether the respondent has accepted responsibility;

- Whether the respondent is reasonably likely to engage in the conduct in the future;
- The need to prevent similar conduct by this respondent; and
- Any other mitigating or aggravating circumstances, including the University's values.

K. Notice of Outcome

Within two (2) calendar days of the decision, the Chair of the HSMB shall provide to the parties a copy of the written report of the HSMB hearing panel decision.

If applicable, the Chair will inform the respondent of any sanctions, the date by which the requirements must be satisfied, and the consequences of failure to satisfy the requirements. The Chair also will inform the complainant of any sanctions that directly relate to the complainant (e.g. a "no contact" requirement). The Chair will also provide each party with an outcome letter containing their appeal options.

The University may also notify appropriate University employees, as necessary to implement the outcome and/or sanctions.

A public notice will be posted that includes the nature of the conduct and each charge for which the party was found "Responsible" or "Not Responsible." If there is a finding of responsibility, the public notice will include the sanction imposed for the charge. The Office of the Vice President for Student Affairs will maintain copies of all public notices for 10 years. The public notice will not include the names of the parties or other personally identifiable information.

L. Appeal

Either party may appeal the finding of a policy violation/non-violation and/or a sanction within seventy-two (72) hours of receipt of the written HSMB hearing report. Appeals must be in writing, specifying in detail the basis for the appeal. An Appeal Panel will be appointed by the Chair of the Appeal Panel to review the matter. The Chair of the Appeal Panel will be a Chair of the HSMB who was not involved in the original hearing. The Appeal Panel will be comprised of three (3) members of the HSMB who do not have a conflict of interest in the case.

Appeals, if granted, do not constitute a re-hearing of the case and the Appeal Panel will defer to decisions of the HSMB hearing panel unless one or more of the reasons for granting the appeal are satisfied. The Appeal Panel will review the entire written record of the HSMB hearing, the written appeal and other documents it deems relevant. Upon completion of this review, the Appeal Panel may grant or reject a

request for appeal based on one or more of the following grounds if it reasonably determines the ground(s) could more likely than not impact the underlying decision:

- No reasonable basis/reasonable basis for sanction;
- New relevant information/no new relevant information (this does not apply in cases of deliberate omission of information by the appellant);
- Procedural defect or error/no procedural defect or error; or
- Extraordinary circumstances/no extraordinary circumstances.

If the Appeal Panel decides to grant an appeal, it may decide the case based solely upon the record of the HSMB, the written appeal, and other documents it deems relevant, or the Appeal Panel may seek additional information from: (1) any person who provided first-hand information to the HSMB hearing panel; (2) any person who may have new, relevant information; and/or (3) the original Chair of the HSMB, before reaching its final decision. In seeking additional information, the Appeal Panel may, but is not required to, hold a hearing.

The Appeal Panel has the option to affirm the decision of the HSMB hearing panel or remand the case to the original HSMB hearing panel in cases in which there is new information presented, where there has been a procedural defect or error, or where there were extraordinary circumstances, provided that the Appeal Panel has reasonably determined that the grounds(s) would more likely than not have impacted the underlying HSMB hearing panel decision. Moreover, the Appeal Panel may remand the case to the original HSMB hearing panel in cases where the Appeal Panel determines that the sanction lacked a reasonable basis.

The Chair of the Appeal Panel will determine the proper composition of the panel for any appeal and oversee the process. The Chair has discretion to accommodate any conflicts that may arise with members constituting the panel.

For an appeal to be granted, at least two (2) members of the Appeal Panel must vote to grant appeal.

M. Additional Considerations for Complaints against Students

1. Time Frames for Resolution

All time frames expressed in this policy are meant to be guidelines rather than rigid requirements. Circumstances may arise that require the extension of time frames. Such circumstances may include, but are not limited to, the complexity of the allegations, the number of witnesses involved, the availability of the parties or

witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, a complainant and respondent can expect that the process will proceed according to these time frames.

- Once the investigation begins, it will be completed within thirty (30) calendar days
- The Chair of the HSMB will decide whether to charge the respondent within two (2) calendar days after receiving the investigation report.
- The Pre-Hearing Conference will be held within seven (7) calendar days after formal charge.
- The HSMB hearing will be held within fourteen (14) calendar days after the formal charge.
- Notice of outcome will be provided within two (2) calendar days of the HSMB hearing panel decision.
- If there is a request for appeal, the decision whether to grant or reject the request for appeal will be resolved within five (5) calendar days after the receipt of the request for an appeal.
- If a request for appeal is granted, the appeal will be resolved within ten (10) calendar days from the time the appeal was granted.

If the investigation and resolution exceed this time frame, the University will notify all parties in writing of the reason for the delay and the expected adjustment in time frames. The University will use its best efforts to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. All parties involved are entitled to periodic status updates on the progress of the complaint.

2. Group Infractions

When members of an organization, team, or other group of individuals acting collusively (a "group") act in concert in violation of this policy, they may be charged as a group, as individuals, or in both capacities, and an investigation may proceed against the group and/or against one or more involved individuals, as appropriate given the available information and the circumstances. The determination as to whether to investigate and/or charge those involved as individuals and/or as a group may be made by the Title IX Coordinator or the Chair, as appropriate under the circumstances.

Leaders or officers, members of a group, and/or the group as a whole may be held collectively and/or individually responsible when violations of this policy by the group or its members take place at an group-sponsored event, have received the consent or

encouragement of the group or of the group's leaders or officers, were known or reasonably should have been known to the group's membership or its leaders or officers, or involve five (5) or more members of a particular group.

In any such action, determinations as to responsibility will be made and sanctions may be assigned collectively to those involved, individually in proportion to the involvement of each individual, and/or to the group as a whole. Notwithstanding the foregoing, no determination(s) made and/or sanction(s) issued under this policy to any individual or group shall preclude or prohibit any other administrative action from being taken, disciplinary or otherwise, or any other conduct body from making a determination and/or imposing sanctions consistent with its own policies, procedures, or practices.

3. Hearing Advisors

The term "Advisors" refers both to Hearing Advisors and Staff Advisors. If an investigation of prohibited conduct is initiated, the complainant and respondent will be provided with one (1) or two (2) Hearing Advisors or one (1) Staff Advisor. Hearing Advisors are law and undergraduate students who have been trained to provide support and advice to complainants and respondents. Staff Advisors are W&L staff who have been trained to provide support and advice to complainants and respondents. The parties may choose whether they wish to use a Staff Advisor or Hearing Advisor(s) or Staff Advisor, but a party cannot use both a Staff Advisor and Hearing Advisor(s).

The role of Hearing Advisors or Staff Advisor is to advise the complainant or respondent of applicable procedures, including the appeal process, if applicable. Hearing Advisors and Staff Advisors are also available to offer support and to provide information on additional resources. While Hearing Advisors and Staff Advisors may accompany the complainant and respondent at meetings, they may not present evidence, question witnesses, or otherwise participate. Parties may request a brief recess to consult with their Hearing Advisor(s) or Staff Advisor, which will be granted at the discretion of the investigators or the Chair of HSMB or Appeal Panel, as applicable.

Any Hearing Advisor or Staff Advisor who does not follow the University's policies, procedures, or practices relating to the Hearing Advisor's or Staff Advisor's role in the resolution process will be warned once. If the Hearing Advisor or Staff Advisor continues to disregard the University's policies, procedures, and/or practices or disrupts or otherwise fails to respect the limits of the role, such Hearing Advisor or Staff Advisor will be asked to leave the meeting, hearing, or other proceeding at the discretion of the investigators or the Chair of the HSMB or Appeal Panel, as applicable.

When an Hearing Advisor or Staff Advisor is removed from a meeting, hearing, or other proceeding, it will continue without the Advisor's presence.

Parties may choose to share the investigation report and other information with their Hearing Advisor(s) or Staff Advisor. All Hearing Advisors and Staff Advisors are expected to maintain the privacy of any records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University or by the applicable law. The University may seek to restrict the role of any Hearing Advisor or Staff Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects all Hearing Advisors and Staff Advisors to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an Hearing Advisor's or Staff Advisor's inability to attend. The University will, however, make provisions to allow a Hearing Advisor or Staff Advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

4. Pendency of Criminal Charges

If criminal charges or a civil suit has been filed against a student with respect to conduct which is also the subject of a complaint before the HSMB, the Title IX Coordinator or HSMB Chair will consult with the Office of Dean of Students to determine if HSMB action should be postponed until resolution of the criminal case or civil suit. Pending criminal charges or civil suits shall not prevent the HSMB from proceeding.

5. Required Administrative Withdrawal for Non-Academic Reasons

Notwithstanding the pendency of a matter before the HSMB or a sanction imposed by the HSMB, in accordance with the University policy regarding Required Administrative Withdrawal for Non-Academic Reasons, the University may require a student to take an administrative withdrawal in circumstances outlined therein, including if there is a sufficient showing that the student is engaging, or is likely to engage in, behavior that presents a real danger of substantial harm to others, or substantially disrupts the learning environment and activities of the campus community.

6. Consolidation of Investigation

The Title IX Coordinator may consolidate multiple reports against a single respondent or group of respondents into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident(s).

7. Records

The Title IX Coordinator will retain records of all reports, allegations, and complaints. Complaints resolved informally are not part of a student's conduct file or academic record.

Affirmative findings of responsibility in matters resolved through a HSMB hearing are part of a student's conduct record. Such records will be used in reviewing any further conduct or in developing sanctions and will remain a part of a student's conduct record. In general, the University will maintain records for the duration of the respondent's relationship with the University, and may retain them for no less than seven (7) years following the respondent's departure from the University.

If the HSMB hearing panel does not find the respondent responsible, the student's conduct file or academic record will reflect the finding.

VII. Procedures for Complaints Against Faculty, Staff, and Other Non-Students

Any individual ("complainant") who believes that he or she has been the object of prohibited discrimination, harassment, or retaliation by a member of the faculty, staff, or other non-student ("respondent"), may raise the concern and bring a complaint through these procedures.

The following procedures will be used if the respondent is an employee or other nonstudent at the time of the report. If the respondent is both a student and an employee:

- The student resolution procedures will apply if the respondent is a full-time student but not a full-time employee;
- The employee resolution procedures will apply if the respondent is a full-time employee but not a full-time student; or
- If there is a question as to the predominant role of the respondent, the Title IX Coordinator, with consultation with others as necessary, will determine which of the procedures applies based on the facts and circumstances (such as which role predominates in the context of the conduct).

Note: The procedures outlined here for complaints of discrimination, harassment, or retaliation against faculty, staff, and other non-students pertain to obtaining information or filing a complaint with the University. They are not intended in any way to preclude any criminal or civil remedies that may also be available to a person who has been the object of unlawful discrimination, harassment, or retaliation under state or federal law.

A. Definitions of Terms and Acronyms

1. **CO-CHAIRS:** The Treasurer/Vice-President for Finance and Administration and the Provost serve as Co-Chairs of the Investigation and Review Officers ("IROs"). As described fully below, the Co-Chairs, who are specially trained to carry out these procedures, receive formal complaints, appoint the Investigator, Review Panel, and Appeal Panel (as needed), notify the parties at various stages in a complaint proceeding, and determine the sanction when a policy violation is found. The Co-Chairs serve as advisors to the IROs on procedural matters.
2. **DPA:** Discrimination Policy Advisers. The DPAs are a group of specially trained 15-20 faculty and staff, representing a cross-section of the campus community. DPAs are peer-nominated, selected by the Co-Chairs, and then invited to serve by the President for three-year staggered terms. DPAs may be invited to serve additional terms without a lapse, but are subject to removal by the President at the request of either Co-Chair. DPAs provide procedural information and options to complainants and respondents regarding complaints by or against faculty, staff or other non-student members of the W&L community under the University Policy on Prohibited Discrimination, Harassment and Retaliation Other Than Sex. DPAs can also work informally to resolve matters themselves or bring in others to assist with informal resolution.
3. **DPA COORDINATOR:** The Co-Chairs will appoint one of the DPAs to serve in this role at the beginning of each academic year (a DPA may serve multiple consecutive years in this capacity if agreed). After these procedures have been in place for two years, the DPA Coordinator will be appointed from the group of DPAs who have served at least two years. The DPA Coordinator is responsible for coordinating training and meetings of the full DPA group, and serves as an adviser to the DPAs on procedural matters related to complaints against faculty, staff, and other non-students. The DPA Coordinator is also responsible for collecting and submitting summary reports to the Co-Chairs on all matters referred to a DPA. The DPA Coordinator may not serve as a DPA for any party to a formal complaint in order that he or she may remain available to advise the DPAs involved in that process on procedural matters.

4. **INVESTIGATION AND REVIEW OFFICERS:** The group of specially trained administrators that make up the pool from which the Co-Chairs draw the Investigator(s), an Investigation and Review Panel (IRP), and (if needed) an Appeal Panel when a formal complaint is filed under these procedures. The IROs consist of the following administrators:

- Vice President for Student Affairs and Dean of Students
- Associate Provost
- Dean of the College
- Dean of the Williams School
- Dean of the School of Law
- Associate Deans of the College
- Associate Dean of the Williams School
- Assistant Dean of the Williams School
- Associate Dean for Administration and Student Affairs (Law School)
- Professor of Law and Associate Dean (Law School)
- Clinical Professor of Law and Director of Academic Success (Law School)
- Assistant Dean, Office of Career Strategy (Law School)
- Executive Director of Human Resources (Assistant Title IX Coordinator for Employment)
- Chief Technology Officer
- Director of Athletics

B. Initial Contact

1. Faculty/Staff Complainant

To raise a concern, a faculty or staff complainant may contact any of the following: 1) a [Discrimination Policy Adviser \("DPA"\)](#); 2) his or her supervisor; 3) any Dean or Associate/Assistant Dean; 4) a Human Resources staff member; or 5) the Assistant Title IX Coordinator for Employment or the Title IX Coordinator.

2. Student Complainant

A student complainant may contact any of the following: 1) a [Discrimination Policy Adviser \("DPA"\)](#); 2) a Student Affairs staff member designated in the [Resources Contact Guide for this Policy](#); 3) another Student Affairs resource (e.g. Student Health and Counseling Services, Public Safety, or Residence Life Staff); 4) any Dean or Associate/Assistant Dean; or 5) the Assistant Title IX Coordinator for Employment or the Title IX Coordinator. If the student complainant chooses to contact a Student

Affairs staff member, or a Dean or Associate/Assistant Dean, that resource will work with the student to access a DPA.

3. Others

Anyone may contact a Discrimination Policy Adviser ("DPA") to raise a concern on their own behalf or on behalf of someone else.

C. Informal Resolution

1. DPAs

DPAs may informally resolve concerns themselves or may bring in others (with consent of the parties) as appropriate to assist with resolution. A DPA may alternatively refer the matter to a supervisor, Dean, Human Resources representative or the Assistant Title IX Coordinator for Employment for informal resolution if the complainant does not wish to pursue a formal complaint. Once a matter has been informally resolved, referred, or the complainant decides to pursue a formal complaint, the DPA submits a written summary report to the DPA Coordinator, who then forwards to the Assistant Title IX Coordinator for review.

2. Human Resources Office

A Human Resources staff member may informally resolve concerns or may bring in others (with consent of the parties) as appropriate to assist with resolution. A Human Resources staff member may alternatively refer a complainant to a DPA, a supervisor or Dean, or the Assistant Title IX Coordinator for Employment for informal resolution if the complainant does not wish to pursue a formal complaint. Once a matter has been informally resolved, referred, or the complainant decides to pursue a formal complaint, the Human Resources staff member then contacts the DPA Coordinator to prepare a summary report, which is reviewed by the Assistant Title IX Coordinator for Employment. If no DPA has been involved in the informal resolution, the Assistant Title IX Coordinator will oversee the preparation of a summary report.

3. Role of Supervisors/Deans

A staff supervisor or Dean (in his or her role as faculty supervisor) may attempt to informally resolve concerns or may bring in others (with consent of the parties) as appropriate to assist with resolution. A supervisor or Dean may alternatively refer a complainant to a DPA, a Human Resources representative, or the Assistant Title IX

Coordinator for Employment for informal resolution if the complainant does not wish to pursue a formal complaint. Once a matter has been informally resolved, referred, or the complainant decides to pursue a formal complaint, the supervisor or Dean then contacts the DPA Coordinator to prepare a summary report. If no DPA has been involved in the informal resolution, the Assistant Title IX Coordinator will oversee the preparation of a summary report.

4. Role of Assistant Title IX Coordinator for Employment

The Executive Director of Human Resources, in his or her role as Assistant Title IX Coordinator for Employment, may assist in the informal resolution of complaints when contacted directly by a complainant, or when a matter is referred to him/her. When no DPA has been involved in attempts to informally resolve a complaint, the Assistant Title IX Coordinator for Employment will see that a summary report of the resolution efforts is prepared. Note: if a matter has been reported to the Title IX Coordinator, he or she will refer the matter to the Assistant Title IX Coordinator for Employment for efforts at informal resolution, when requested and appropriate.

D. Formal Complaint

Note: all time frames referenced in these formal complaint procedures are subject to extension by the appropriate Co-Chair for good reason.

1. Initiation of Formal Complaint

A formal complaint should be initiated through a DPA and should be brought forward promptly to allow the most effective investigation. A complainant - or any other concerned individual wishing to bring a formal complaint - may contact a DPA directly, or may be referred to a DPA by another resource. The complaint should be brought by submitting a signed writing to a DPA, who should then contact the DPA Coordinator to advise that the complaint is being initiated formally. The DPA Coordinator should notify the Assistant Title IX Coordinator for Employment that a formal complaint is being initiated.

2. Submission of Complaint / Notification to Respondent

The DPA submits the formal complaint, along with any questions from the complainant about the process or concerns expressed by the complainant about the need for interim measures during the investigation and review of the complaint (see section 10), to the appropriate IRO Co-Chair (Provost if the respondent is a faculty

member; Treasurer/Vice President for Finance and Administration if the Respondent is a staff member) - except as noted below in subsections D(5) and (5). The DPA Coordinator or Assistant Title IX Coordinator for Employment should submit a copy of the summary report, if any, outlining prior handling of the complaint through informal channels, to the Co-Chair, to be included with the record.

The appropriate Co-Chair will then promptly (within five (5) business days after being provided the complaint, if practicable) notify the respondent that a formal complaint has been initiated and make arrangements to meet with the respondent to provide the respondent with a verbal summary of the complaint and outline the complaint process. The Co-Chair will advise the respondent of the University's non-retaliation policy, and will inform the respondent of his or her right to choose a DPA and to submit to the investigator, if desired, a written statement regarding the complaint to be made a part of the record. If the respondent chooses to submit a written statement, he or she should do so within five (5) business days after being given a verbal summary of the complaint.

3. Preliminary Actions by Co-Chair

The appropriate Co-Chair will promptly appoint an IRO to serve as the investigator. In some cases, the Co-Chair may appoint a team of two investigators as he or she deems appropriate. The Co-Chair will then make a preliminary selection of three IROs to serve as the members of the three-person Investigation and Review Panel. If an IRO is the respondent or the complainant, the process operates as usual, with that IRO not being involved in any capacity other than as a party.

4. Complaint by or against an IRO Co-Chair

If one of the Co-Chairs is the respondent or complainant, the President will serve in the role of that Co-Chair and the process will operate as usual. In this situation, any appeal would go to the Chair of the Audit Subcommittee of the Finance Committee of the Board of Trustees ("Audit Subcommittee").

5. Complaint against the President and/or a Trustee

If the respondent is the President or a member of the Board of Trustees, the complaint is filed directly with the Audit Subcommittee by delivery of a sealed written complaint to the Secretary of the University, Washington Hall 203, labeled "Complaint to the Audit Subcommittee under the University Policy on Prohibited Discrimination, Harassment and Retaliation Other Than Sex." The Secretary of the Board will deliver

the sealed written complaint intact to the Chair of the Audit Subcommittee and the Audit Subcommittee will handle or direct all further proceedings.

6. Involvement of Assistant Title IX Coordinator for Employment in Formal Complaints

The Assistant Title IX Coordinator for Employment is available to act as a resource to the Co-Chairs, the Investigator, the DPAs, or the parties to a formal complaint, in order to address issues that arise during the complaint process. In the event that the Assistant Title IX Coordinator for Employment has had a substantive role in informal complaint resolution efforts prior to the initiation of the formal complaint, or acts as a resource beyond the resolution of purely procedural questions during the formal complaint process, he or she will not serve on any Investigation Review Panel or Appeal Panel in that case thereafter.

E. Investigation

The investigation is conducted solely by the appointed investigator(s), who will interview the parties and other witnesses as necessary. A party's DPA may sit with her/him during an interview if requested by the party as a support resource, but may not participate in the interview. The investigator(s) will inform the parties and witnesses of the requirement of ongoing privacy regarding the matter being investigated and the University's policy prohibiting retaliation against any person involved in a complaint process. In most cases, absent unusual circumstances, the investigation should be completed within thirty (30) business days after the investigator receives the complaint.

F. Withdrawal of Complaint; Review of Parties' Proposed Resolution

1. Withdrawal of Complaint

At any time during a formal complaint process, the complainant may request of the Co-Chair to withdraw his or her formal complaint. Before approving a withdrawal of the complaint, the Co-Chair will meet with the complainant and his or her DPA, if desired, to discuss the request. The Co-Chair retains the discretion to reject the request for withdrawal and to proceed with the formal process, with or without the further participation of the complainant, if he or she believes it prudent and

appropriate to do so in the best interest of the university community, based on all relevant information.

2. Review of Parties' Proposed Resolution

If, after the initiation of a formal complaint but before the issuance of the investigative report, the respondent acknowledges inappropriate conduct and proposes a resolution/sanction agreeable to the complainant, an IRP will be appointed to review the conduct acknowledged and the proposed resolution/sanction. If the IRP finds the resolution/ sanction reasonable, it will be recommended and sent to the appropriate Co-Chair for implementation. If the IRP finds the proposed resolution/sanction unreasonable given the nature and circumstances of the conduct acknowledged or alleged, it may reject the proposed resolution/sanction and conduct a normal IRP review after issuance of the investigative report.

G. Investigative Report; Party Responses; IRP Appointment

1. Investigative Report

Upon conclusion of the investigation, the investigator(s) will prepare and submit to the appropriate Co-Chair a written investigative report, reaching an assessment on whether it is more likely than not that the facts present conduct that would constitute a violation of the University Policy on Prohibited Discrimination, Harassment and Retaliation Other Than Sex, or other university policies. The complainant and respondent will each be provided with a version of the report (the University reserves the right to redact witness names and personally identifiable witness statements), not to be copied or distributed, but which the party may share with his or her DPA.

2. Party Responses to Investigative Report

The parties will each have five (5) business days from the day of their receipt of the investigative report to prepare and submit a written response to the appropriate Co-Chair for the record.

3. IRP Appointment

The appropriate Co-Chair will then promptly notify the parties of which IROs have been selected to make up the Investigation and Review Panel (IRP) and will designate one of them as IRP Chair. The parties must submit any concerns about the IRP composition to the Co-Chair in writing within one (1) business day of receipt of notice.

The Co-Chair may follow-up with the parties and/or IRP members regarding any stated concerns, as needed. The Co-Chair will notify the parties and IRP members of any change to the composition of the IRP if the Co-Chair concludes that one or more of the designated IRP members should not serve on that panel. Note: see section D(6) above regarding participation of Executive Director of Human Resources/Assistant Title IX Coordinator for Employment when he or she has had any substantive role in efforts to informally resolve the complaint or the formal complaint process.

H. IRP Review

The IRP will review the investigative report and the related record regardless of whether the investigator(s) concluded a violation occurred. In most cases, absent unusual circumstances, the IRP review should be completed within ten (10) business days of the date the IRP members receive the record from the Co-Chair.

If the IRP has any questions, it may meet with the investigator(s) in person and/or may request that the parties separately meet with the IRP (in which case, the parties' DPAs may be present but not participate). If the IRP finds that any other follow-up is needed with witnesses, the investigator(s) will conduct the follow-up and submit an addendum to the written investigative report, which will be sent to the IRP. In such instances, the parties will be given an opportunity to view a redacted version of the addendum, consistent with the parties' opportunity to review the original investigative report (see subsection G (1)).

Once the IRP has determined that it has sufficient information to make a decision, it will discuss the matter outside the presence of the investigator(s) and the parties. The IRP will then reach a decision on whether it is more likely than not that university policy was violated, and (if so) will make a written recommendation of sanctions to the appropriate Co-Chair (see format of IRP report in Section I below). The IRP may make recommendations to the Co-Chair for appropriate follow-up actions (including training, counseling, or other educational opportunities) in the absence of a finding of a policy violation.

I. Co-Chair Notifies Parties of Final Decision and Sanction

The IRP's decision about whether university policy was violated is binding on the Co-Chair, but subject to appeal by either party. However, the Co-Chair has the discretion to determine the final sanction if the IRP has found a policy violation or to impose follow up actions in the absence of a policy violation. If the individual found to have violated university policy is a faculty member and the Co-Chair concurs with an IRP

sanction recommendation of termination, the case will proceed in accordance with the "for cause" dismissal proceedings set forth in the Faculty Handbook where applicable. In such a case, the Co-Chair (Provost) is ineligible to serve as the President's designee under the "for cause" dismissal process.

The Co-Chair will meet promptly and separately with each party (and his or her DPA, if applicable and desired by the party) to notify the parties of the outcome, review the ongoing privacy obligations, the prohibition against retaliation, and the appeals process. If practicable, these meetings should be scheduled within five (5) business days of the Co-Chair's receipt of the IRP report. In the meetings, the Co-Chair will provide the two page IRP report in the following manner: the first page (which contains the findings on the allegations of a policy violation) will be provided to each party; the second page (which contains the IRP-recommended sanction(s) or follow up actions and the Co-Chair's decision on sanction(s) or follow up actions) will be provided solely to the respondent, unless the sanctions or follow up actions are such that they directly involve the complainant (e.g. a "no contact" requirement). If University DPAs have worked with either party in a proceeding, that DPA will promptly schedule a follow up meeting with his or her party to discuss the process and answer any questions the party may have.

If, through informal resolution or Co-Chair decision upon a finding of no violation, a respondent has been advised to receive training, counseling, or some other professional development, or to take some other follow up action(s), the Co-Chair will oversee fulfillment of this obligation, though he or she may delegate coordination of the details to respondent's supervisor. If a respondent has been sanctioned for a violation, the appropriate Co-Chair will oversee fulfillment of the sanction.

J. Appeals Process

Either the complainant or respondent may appeal a finding of a policy violation/non-violation and/or a sanction/follow up action of which he or she has been informed. Appeals must be in writing, specifying in detail the basis for the appeal, and must be filed with the Co-Chair who issued the original decision within five (5) business days of receipt of that decision. An Appeal Panel (comprised of three IROs who were not involved in the original investigation or panel) will be appointed by the other Co-Chair (who was not involved in the original review or sanctioning process). The appeal review will then be conducted as soon as possible. In most cases, absent unusual circumstances, the Appeal Panel review should be completed within ten (10) business days of the date the panel members receive the record from the Co-Chair.

The Appeal Panel will not substitute its judgment for the IRP or Co-Chair if it finds there was a reasonable basis for appealed aspects of the decision. In making such a

determination, the Appeal Panel may speak with the investigator(s), the appropriate Co-Chair, or the parties as the Appeal Panel deems necessary (in which case, the parties' DPAs may be present but not participate).

If the Appeal Panel fully affirms a "no-violation" finding made by the IRP with or without recommended follow up actions, or affirms a finding of a violation and/or the sanction, the Appeal Panel will issue a brief written decision to that effect using part one of the Appeal Panel Report and submit it to the Co-Chair who issued the original decision, who will then meet promptly with each party (and his or her DPA, if applicable and desired by the party) to advise of the Appeal Panel's decision, which is final. If practicable, these meetings should be scheduled within five (5) business days of the Co-Chair's receipt of the Appeal Panel Report.

If the Appeal Panel affirms a "no-violation" finding made by the IRP, but does not affirm recommended follow up actions (or absence of such actions), the Appeal Panel will explain the facts and analysis supporting its findings and recommendations in part two of the Appeal Panel Report. The Co-Chair issuing the original decision will then review the recommendations regarding any follow up actions and issue the final decision on such measures. The Co-Chair will then meet promptly with each party separately (and his or her DPA, if applicable and desired by the party) to advise of the Appeal Panel's decision. If practicable, these meetings should be scheduled within five (5) business days of the Co-Chair's receipt of the Appeal Panel Report. The Co-Chair will advise only the respondent on the decision regarding follow up actions and share part two of the Appeal Panel Report only with the respondent, except for any part of such actions that directly involve(s) the complainant. The Co-Chair's decision on such follow up actions is final.

If the Appeal Panel overturns a "no-violation" finding, the matter is sent back to the appropriate Co-Chair for the original review proceeding, who will then make a decision on the sanction and meet promptly with the parties (and their DPAs, if applicable, and desired by the party) to share the two-part Appeal Panel Report. If practicable, these meetings should be scheduled within five (5) business days of the Co-Chair's receipt of the Appeal Panel Report. The first part (which contains the basis for the overturning of the "no-violation" finding) will be provided to both parties; the second part (which contains the Co-Chair's decision on sanction) will be provided only to the respondent, unless some part of the sanction directly involves the complainant. The Co-Chair's decision on sanction is appealable by respondent within five (5) business days of receipt of the sanction decision. Such an appeal must be in writing, filed with the Co-Chair who issued the decision, and must specify in detail the basis for the appeal.

If the Appeal Panel concurs with a violation finding but finds a sanction is without reasonable basis, the Appeal Panel should first consult the appropriate Co-Chair to

review the sanction. If no consensus decision can be reached, both the Appeal Panel and the appropriate Co-Chair will submit their separate recommendations in writing to the President, who will make the final determination by accepting one of the two recommendations and signing off on that recommended sanction. Thereafter, the Co-Chair will meet promptly with the respondent (and his or her DPA, if applicable and desired by the party) to advise him/her of the President's decision on sanction and will also advise the complainant when the sanction involves the complainant. If practicable, these meetings should be scheduled within five (5) business days from the Co-Chair's receipt of the President's decision. The President's decision on sanction is final.

If the Appeal Panel overturns a violation finding, the matter is sent back to the appropriate Co-Chair for the original review proceeding, who will then remove the sanction(s) issued, decide any appropriate follow up action(s), and meet promptly with the parties (and their DPAs, if applicable, and desired by the party) to share the two-part Appeal Panel decision. If practicable, these meetings should be scheduled within five (5) business days from the Co-Chair's receipt of the Appeal Panel Report. The first part (which contains the basis for the overturning of the violation finding) will be provided to both parties; the second part (which contains the Co-Chair's removal of sanction and decision on any follow up actions) will be provided only to the respondent, unless some part of the sanction directly involves the complainant.

K. Interim Measures

The appropriate Co-Chair, and/or the Assistant Title IX Coordinator, may take or arrange for such interim measures as he or she deems advisable in a given case, taking into account the complainant's wishes, and with the intent to minimize impact on the complainant's and respondent's educational or workplace activities. These interim measures may include, but not be limited to, a no-contact directive between the parties at any point in a complaint process, providing a complainant with an escort on campus, changes to academic, living, transportation, and working situations, if such adjustments are reasonably available. Further, if, at any point in a complaint process, the Co-Chair believes that the respondent represents a danger to individuals or a disruption to campus operations, the respondent may be placed on administrative leave with pay pending the outcome of the complaint and appeals process. If a complainant chooses not to bring a formal complaint forward, the Assistant Title IX Coordinator, Title IX Coordinator, or other designated university resource under this policy, can still assist with interim measures and adjustments, as appropriate.

L. Privacy and Recordkeeping

The facts about individual cases and their dispositions are to remain private to the extent possible. In order to protect the privacy of all involved and to promote the effectiveness and credibility of these procedures, no one involved in a complaint process should discuss any information regarding the case except with those who have a legitimate need to know. Any member of the campus community who violates the privacy provisions of these procedures, and/or the privacy directives of the administrators handling complaints, will be subject to discipline.

The Co-Chairs, DPA Coordinator, and the Assistant Title IX Coordinator for Employment will maintain the official written records of formal and informal complaints and resolutions under these procedures until the completion of a given matter, at which time they will forward the official records to the Title IX Coordinator for recordkeeping in accordance with applicable University record retention schedules. All other working materials and notes created or referred to during the course of a complaint by the individuals handling or participating in the complaint process should be shredded at the end of the complaint process. The DPA Coordinator or the Assistant Title IX Coordinator for Employment (in the case of an informal complaint) or the appropriate Co-Chair (in the case of a formal complaint) will advise all those involved when the records may be shredded.

Revision History

1. Revised 8/15/2009 in accordance with recommendations from the Designated Officer and Grievance Procedure Working Group, resulting in consolidation of two prior non-discrimination policies (one covering students and one covering non-students).
2. Revised 8/2/2010 to add Sexual Misconduct to the Heading of Section A where it is addressed and to remove the unnecessary "In addition" language that was previously at the beginning of the third paragraph of Section A.
3. Revised 7/13/2011 to add stalking as a form of prohibited harassment and to make clear that complainants may seek redress for unlawful conduct in violation of this policy through external criminal or civil processes.
4. Revised 8/12/14 to remove prohibited discrimination or harassment based upon gender or sex, including sexual assault and stalking, which, together with relationship violence, are addressed in a separate Interim Sexual Harassment and Misconduct Policy.
5. Revised August 1, 2015 to change the title of "Interim Sexual Harassment and Misconduct Policy" to "Amended Interim Sexual Misconduct Policy" under "Related Policies."
6. Revised August 1, 2016.
7. Revised October 1, 2017.

