

Douglas Education Center

Title IX Non-Discrimination & Grievance Process Policy

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Version 2.0

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QUICK REFERENCE GUIDE

Douglas Education Center
Title IX Coordinator: Michael Crosby
Address: Administration Building, Room 203, 130 Seventh Street, Monessen, PA 15062
Tel.: (724) 653-2196
Email: tixcoordinator@dec.edu
Web: <https://www.dec.edu/title9>

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Title IX Non-Discrimination & Grievance Process Policy

I. Introduction

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in any education program or activity operated by a recipient that receives federal financial assistance. As an educational institution subject to Title IX, Douglas Education Center¹ has adopted this Title IX Non-Discrimination & Grievance Process Policy (the “Policy”).² As set forth in detail herein, Douglas Education Center.

- Does not discriminate on the basis of sex, and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admissions and employment;
- Is committed to providing an educational and workplace environment that is free from sex-based discrimination, harassment, and retaliation;
- Is committed to promoting fairness and equity in all aspects its operations; and
- Values and promotes the equal dignity of all community members and is committed to the pursuit of just resolutions with respect the rights of all parties involved.

This Policy is adopted to prevent discrimination prohibited under Title IX and provide a prompt, fair, and impartial process to address complaints of alleged discrimination based on sex.

Inquiries about this Policy or the application of Title IX may be referred to Douglas Education Center’s Title IX Coordinator, the U.S. Department of Education’s Office for Civil Rights, or both.

II. Overview of Title IX Policy and Grievance Process: General Provisions

Douglas Education Center has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Responsibilities of the Title IX Coordinator

The Title IX Coordinator oversees implementation and enforcement of this Policy, which includes primary responsibility for coordinating the School’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

The School’s Title IX Coordinator is identified below and may be contacted with questions about this Policy, to file a report or formal complaint, or to otherwise assist individuals in ensuring equal access to the School’s educational programs or activities in compliance with Title IX.

¹ Douglas Education Center may be referred to interchangeably as the “School” throughout this Policy.

² All capitalized terms not defined within this Policy are defined in Appendix A.

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Individuals may also contact the U.S. Department of Education's Office for Civil Rights with Title IX questions. *(Please note that inquiries to OCR alone are not sufficient to allow appropriate responsive action by the School. To ensure your concern is appropriately addressed under this Policy, please file a report with the School's Title IX Coordinator).*

Office for Civil Rights (OCR)
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How to Make a Report or Complaint of an Alleged Title IX Violation

Any person may report alleged sex discrimination, sexual harassment, or retaliation to the Title IX Coordinator, irrespective of whether the reporting person is the alleged victim of such conduct. A report is differentiated from a Complaint which is a request that the School investigate the allegation(s) and implement the School's Grievance Process. A report or complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail at any time (including during non-business hours), using the contact information in the section immediately above or as described below:

- 1) To the Title IX Coordinator:
Michael Crosby
Administration Building, Room 203
130 Seventh Street
Monessen, PA 15062.
- 2) The School's online reporting form at <https://www.dec.edu/title9>.
- 3) By telephone via the School's harassment/discrimination hotline 724-653-2196.
- 4) By email at tixcoordinator@dec.edu.

Complaints involving sex discrimination

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

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

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

- 1) Any student or employee the School or
- 2) Any person other than a student or employee who was participating or attempting to participate in the School's education program or activity at the time of the alleged sex discrimination.

The School may consolidate complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a party, Complainant, or Respondent include the plural, as applicable. The decision to consolidate complaints rests within the discretion of the Title IX Coordinator. Complaints may be consolidated only to the extent that such a consolidation does not violate FERPA.

After Making a Report or Complaint

Upon receipt of report or Complaint, the Title IX Coordinator shall undertake an initial assessment to determine appropriate next steps as required under this Policy, including making an initial threat assessment to ensure there is no immediate danger to Complainant or the campus community and, if there is, to take appropriate action, which may include emergency removal of Respondent as described below.

The Coordinator shall contact Complainant to discuss the availability of appropriate supportive measures that may be implemented with input from the Complainant irrespective of, and in addition to, any resolution process including the formal Grievance Process.

If the report has been made without filing a Complaint, the Title IX Coordinator will review the allegations and discuss options with the Complainant, including the option of proceeding with informal resolution or application of the Grievance Process upon filing a Complaint. If the Complainant does not want to proceed with a Complaint, the Coordinator may initiate a Complaint if the Coordinator determines that a Complaint is warranted after making a fact-specific determination as required under 34 CFR 106.44(f).

If the Complainant files a Complaint, or the Title IX Coordinator initiates a Complaint, the matter will proceed as described under the Grievance Process.

Informal Resolution

In lieu of resolving a complaint through the School's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The School does not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law.

Informal resolution involves the parties agreeing to resolve the matter by mutual agreement. Informal resolution may not be used when the School's grievance procedure is desired by either party or where the Title IX Coordinator has determined that the School needs to proceed with an investigation. Informal resolution may take place at any time prior to a determination being issued or a Respondent taking responsibility. The informal resolution process will be conducted by an informal resolution facilitator that is not the investigator or decisionmaker in the School's grievance procedures. Both the Complainant and the Respondent have the right to end the informal resolution process at any time. Any informal resolution must be acceptable to the Complainant, the Respondent, and the Title IX Coordinator.

If a resolution is reached, the Complainant and the Respondent shall be notified in writing, and the Title IX Coordinator will confer with appropriate parties to memorialize the agreed upon resolution and any consequences for non-compliance in a memorandum. If no agreement is reached within a reasonable time, the Title IX Coordinator shall proceed with the School's grievance procedures.

Supportive Measures

The School will offer and coordinate supportive measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to the School's education program or activity or provide support during the School's Title IX grievance procedures or during the informal resolution process.

The School shall maintain the confidentiality of the supportive measures to the greatest extent reasonably practicable, provided that confidentiality does not impair the School's ability to provide supportive measures or otherwise fulfill its obligations under this Policy. The School will implement measures in a way that does not unreasonably burden the other party.

Supportive measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, referral to medical or healthcare services, referral to community-based services, campus escort services, mutual restrictions on contact between the parties, increased monitoring of certain areas of the campus, and other similar measures.

Emergency Removal of Respondent

The School reserves the right to remove a Respondent from its education program or activities on an emergency basis when the Respondent poses an imminent and serious threat to the health or safety of a Complainant or any other campus community member arising from the allegations of sex discrimination or sex-based harassment, following an individualized safety and threat assessment. The School will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. If an emergency removal is imposed, the Respondent will be given notice of the removal and the option to challenge the decision immediately following the removal.

Administrative Leave of Employee Respondent

Respondents that are School employees may be placed on administrative leave during the pendency of a grievance process as determined by the School and the Title IX Coordinator.

Anonymous Report or Complaint

If a Complainant makes a report anonymously, it will be investigated by the School to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. Anonymous reports typically limit the School's ability to investigate and respond, depending on what information is shared. In some situations, the Title IX Coordinator may proceed with the issuance of a Complaint even when the Complainant's report has been made anonymously.

Confidentiality

The School shall undertake reasonable efforts to preserve the confidentiality of reports and complaints. The School shall not disclose any report or complaint except as provided herein and as necessary to effectuate this Policy, or as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99, or as required under applicable law.

Certain professionals have a legal and/or ethical responsibility to maintain communications made in the scope of their professional roles in strict confidence.³ Some of these roles include licensed professional counselors/mental health providers, licensed medical and health care providers, victim advocates, ordained/licensed clergy, licensed attorneys and rape crisis or domestic violence resources. Complainants or Respondents wishing to speak to someone confidentially are encouraged to seek out such resources. Communications with such professionals are considered legally privileged and cannot be revealed without a party's express written consent.

Confidential Employees

Certain individuals are designated as Confidential Employees⁴. For reports made to employees designated with having confidentiality, the School will respect the reporting party's expectations of privacy **to the extent permissible by law** while still ensuring compliance with other reporting obligations. For example, complaints involving minors are subject to mandatory reporting requirements.

Individuals designated as having confidentiality are able to offer supportive services without being obligated to make a report to the Title IX Coordinator, however, all Confidential Employees must explain the following to any person who inform them of conduct that reasonably may constitute sex discrimination under this policy:

- 1) Their status as confidential including the circumstances in which they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
- 2) How to contact the recipient's Title IX Coordinator and how to make a complaint of sex discrimination; and
- 3) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

³ In highly limited circumstances, such as when presenting an immediate threat or danger to another, or when subject to a court order, confidential communications may be revealed without the consent of a party.

⁴ The School has identified the following as Confidential Employees: Natalie Jones: Career Services and Alumni Coordinator, Dejah Gilgour: Tom Savini Instructor, Karen Nelson: Cosmetology Supervisor, Christopher Dodd: Lead Instructor CDL Program, Robert Tinnell: Director of George A. Romero's Filmmaking Program, and Trisha Kindermann Program Director of Advanced Cosmetic Techniques.

Alcohol and Drug Use Amnesty

The health and safety of every student at Douglas Education Center is of utmost importance. Douglas Education Center recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time sex discrimination or sex-based harassment occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Douglas Education Center strongly encourages students to report incidents of sex discrimination or sex-based harassment. A witness to or individual who experiences sex discrimination or sex-based harassment, acting in good faith, who discloses any incident of sex discrimination or sex-based harassment to Douglas Education Center officials will not be sanctioned under Douglas Education Center's code of conduct for violations of alcohol and/or drug use policies occurring at or near the time of the incident(s) of sex discrimination or sex-based harassment. Douglas Education Center may request the individual attend an approved alcohol or drug education program and without assessing any charges for such program. This amnesty provision also applies to student groups making a report of sex discrimination or sex-based harassment. Amnesty does not preclude or prevent action by police or other legal authorities pursuant to relevant state or federal criminal statutes.

Amnesty is not applicable to more serious allegations, such as physical abuse of another or illicit drug distribution.

Conflict-of-Interest & Bias

Title IX Personnel are trained to ensure they have no conflict of interest and are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. To raise any concern involving bias, conflict of interest or other misconduct by any Title IX Personnel contact the School's President Jeffrey Imbrescia at 724-653-2200 or jimbrescia@dec.edu to report your concern.

Clery Act Reporting

Reports or complaints of sexual assault, domestic violence, dating violence, and/or stalking that pose a serious or continuing threat of bodily harm or danger to members of the campus community may trigger a timely warning obligation by the School under the Clery Act. If a warning is deemed necessary, the School will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

In addition, the School is obligated to report and disclose crimes under the Clery Act, including the crimes of sexual assault, domestic violence, dating violence and stalking as defined in this Policy, for statistical reporting purposes only. Reports of these crimes do not include personally identifiable information and therefore preserves the confidentiality of any involved parties.

Retaliation

The School prohibits retaliation, including peer to peer retaliation, under this Policy. Retaliation may include intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing, including informal resolution, under this Policy and procedure. Alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The School will take appropriate action to protect individuals who fear that they may be subjected to retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation. Relatedly, a determination of responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Notice, Dissemination and Publication of Policy

Title IX requires each recipient to provide a notice of nondiscrimination to students; parents, guardians, or other authorized legal representatives of elementary school and secondary school students; employees; applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the recipient. Douglas Education Center complies with Title IX's notice requirements, including prominently publishing its Non-Discrimination & Grievance Process Policy and contact information for the Title IX Coordinator on its website and in other publications.

III. Sexual Harassment Defined

Sexual Harassment Defined

For purposes of this Policy and the grievance process, Sexual Harassment has the meaning set forth below. Sexual Harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, gender and/or gender identity of those involved.

A form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- 1) *Quid pro quo harassment.* An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- 2) *Hostile environment harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the Complainant's ability to

- access the recipient's education program or activity;
 - b. The type, frequency, and duration of the conduct;
 - c. The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location of the conduct and the context in which the conduct occurred; and
 - e. Other sex-based harassment in the recipient's education program or activity; or
- 3) *Specific offenses.*
- a. Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation which is defined as any sexual act including Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.
 - b. Dating violence meaning violence committed by a person:
 - i. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - 1. The length of the relationship;
 - 2. The type of relationship; and
 - 3. The frequency of interaction between the persons involved in the relationship;
 - c. Domestic violence meaning felony or misdemeanor crimes committed by a person who:
 - i. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - ii. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - iii. Shares a child in common with the victim; or
 - iv. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
 - d. Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i. Fear for the person's safety or the safety of others; or
 - ii. Suffer substantial emotional distress.

IV. Grievance Process

Grievance Procedures for Complaints of Sex Discrimination

If a Complaint is filed, the matter will proceed through the Grievance Process as described below.

The School will treat Complainants and Respondents equitably.

The School requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

The School presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The School will make a good faith effort to complete the resolution process fairly and promptly. Duration of a matter that proceeds through the Grievance Process is determined by many factors including, but not limited to, the cooperation and availability of the parties and witnesses, potential concurrent criminal investigations, and the School closures, among others. The School has established the following timeframes for the major stages of the grievance procedures:

- Evaluation of Complaint: 20 business days
- Investigation of Complaint: 35 business days
- Determination of Responsibility: 20 business days
- Appeal of Decision: 15 business days

The School will avoid all undue delays within its control and will grant reasonable extensions of time, upon written request and showing of good cause, by a party. The School shall provide the parties written notice of delays and/or extensions, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

The School will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The School will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the School to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used),

regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the School obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Notice of Allegations

Upon initiation of the School's Title IX grievance procedures, the School will notify the parties of the following:

- 1) The School's Title IX grievance procedures and any informal resolution process;
- 2) Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- 3) Retaliation is prohibited; and
- 4) The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, the School decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the School will notify the parties of the additional allegations.

Dismissal of a Complaint:

The School may dismiss a complaint of sex discrimination if:

- 1) The School is unable to identify the Respondent after taking reasonable steps to do so;
- 2) The Respondent is not participating in the School's education program or activity and is not employed by the School;
- 3) The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the School determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven;

or

- 4) The School determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the School will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the School will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the School will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing.

The School will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the School will also notify the Respondent that the dismissal may be appealed. Dismissals must be appealed in writing to the Title IX Coordinator. Dismissals may be appealed on the following bases:

- 1) Procedural irregularity that would change the outcome;
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- 3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

If the dismissal is appealed, the School will:

- 1) Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- 2) Implement appeal procedures equally for the parties;
- 3) Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- 4) Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- 5) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- 6) Notify the parties of the result of the appeal and the rationale for the result.

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

- 1) Offer supportive measures to the Complainant as appropriate;
- 2) If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- 3) Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the School's education program or activity.

Investigation

The School will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the School not on the parties—to conduct an investigation that gathers

sufficient evidence to determine whether sex discrimination occurred.

The School will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The School will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The School will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- 1) The School will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the School provides a description of the evidence: the School will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- 2) The School will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- 3) The School will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Questioning the Parties and Witnesses

The School provides a process that enables the decisionmaker or investigator to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

The decisionmaker or investigator will ask the parties and witnesses relevant and not otherwise impermissible questions and follow-up questions, including those challenging credibility during individual meetings that will be scheduled by the decisionmaker or investigator before determining whether sex-based harassment occurred.

Each party will be allowed to propose to the decisionmaker or investigator relevant and not otherwise impermissible questions and follow-up questions including questions challenging credibility that the party wants asked of any party or witness and have those questions asked during individual meetings including follow-up meetings with the parties.

Each party will be provided with either an audio recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the School will:

- 1) Use the *preponderance of the evidence* standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate

relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.

- 2) Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable.
 - a. Notification of the determination outcome will be delivered simultaneously to the parties by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official School records, or emailed to the parties' School-issued email or otherwise approved account. Once mailed, e-mailed and/or received in-person, notice will be presumptively delivered.
- 3) Not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited sex discrimination.
- 4) If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 - a. Coordinate the provision and implementation of remedies to a Complainant and other people the School identifies as having had equal access to the School's education program or activity limited or denied by sex discrimination;
 - b. Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
 - c. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.
- 5) Comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and
- 6) Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Appeal of Determinations

The School offers the following process for appeals from a determination whether sex discrimination occurred:

Any party may file an Appeal on the following grounds. Appeals must be submitted in writing to the Title IX Coordinator within 3 days of the delivery of the Notice of Outcome. After expiration of the appeal window, the determination will be considered final, and any applicable sanctions will be imposed.

- 1) Procedural irregularity that would change the outcome;
- 2) New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- 3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual

Complainant or Respondent that would change the outcome.

Any sanctions imposed as a result of the Final Determination are stayed during the appeal process.

Title IX personnel with prior involvement in the matter will not be permitted to serve as a Decision-maker in the appeal. A decision on the merits will be based on information provided in the appeal document. If an appeal is based on the availability of new evidence, this evidence must be described with specificity and must be available for review within a reasonably prompt timeframe for consideration.

The appeal outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, and the rationale supporting the findings. Appeal decisions will be made within seven (7) business days, barring exigent circumstances, including the review of new evidence not immediately available for submission with the appeal request. Decisions on appeal will be made by applying the preponderance of evidence standard. Notification of the appeal outcome will be made in writing and will be delivered simultaneously to the parties by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official School records, or emailed to the parties' School-issued email or otherwise approved account. Once mailed, e-mailed and/or received in-person, notice will be presumptively delivered. Decisions on appeal are considered final.

Disciplinary Sanctions and Remedies

Following a determination that sex-based harassment occurred, the School may impose disciplinary sanctions, which may include:

Student Sanctions:

- 1) *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any School policy, procedure, or directive will result in more severe sanctions/responsive actions.
- 2) *Required Counseling:* A mandate to meet with and engage in external counseling to better comprehend the misconduct and its effects.
- 3) *Probation:* A written reprimand for violation of School policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any School policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- 4) *Permanent Order of No Contact:* An order which forbids any type of in-person or virtual interaction between the Complainant and Respondent during their remaining period of enrollment.

- 5) *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the School.
- 6) *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend School-sponsored events.

Employee Sanctions:

- 1) *Warning – Verbal or Written*
- 2) *Required Counseling*
- 3) *Written Warning with Probation*
- 4) *Termination*
- 5) *Other Actions*: In addition to or in place of the above sanctions, the School may impose any other sanction as deemed appropriate.

The School may also provide remedies with respect to the parties and/or campus community that are intended to stop the harassment, discrimination, and/or retaliation remedy the effects, and prevent reoccurrence. Remedies may include but are not limited to:

- 1) Referral to counseling and health services
- 2) Education to the individual and/or the community
- 3) Climate surveys
- 4) Policy modification
- 5) Training or awareness campaigns
- 6) Implementation of long-term contact limitations between the parties
- 7) Adjustments to academic deadlines, course schedules, etc.
- 8) Modified campus security measures

Failure to Comply with Disciplinary Sanctions or other Remedies

Respondents are expected to comply with any disciplinary sanction or remedy as set forth in the Final Determination or in response to a final outcome. Failure to abide by the sanction(s)/action(s) whether by refusal, neglect, or any other reason, may result in additional disciplinary action, including suspension, and/or expulsion.

Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Complainants or Student Respondents

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

- 1) A “Complainant,” which includes:
 - a. a student or employee of the School who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - b. a person other than a student or employee of the School who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate

- in the School's education program or activity;
- 2) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
 - 3) The School's Title IX Coordinator

If a Complaint is filed, the matter will proceed through the Grievance Process as described below.

The School will treat Complainants and Respondents equitably.

The School requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

The School presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The School will make a good faith effort to complete the resolution process fairly and promptly. Duration of a matter that proceeds through the Grievance Process is determined by many factors including, but not limited to, the cooperation and availability of the parties and witnesses, potential concurrent criminal investigations, and the School closures, among others. The School has established the following timeframes for the major stages of the grievance procedures:

- Evaluation of Complaint: 20 business days
- Investigation of Complaint: 35 business days
- Determination of Responsibility: 20 business days
- Appeal of Decision: 15 business days

The School will avoid all undue delays within its control and will grant reasonable extensions of time, upon written request and showing of good cause, by a party. The School shall provide the parties written notice of delays and/or extensions, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

The School will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The School will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the School to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- 1) Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- 2) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the School obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- 3) Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Notice of Allegations

Upon initiation of the School's Title IX grievance procedures, the School will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- 1) The School's Title IX grievance procedures and any informal resolution process;
- 2) Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- 3) Retaliation is prohibited;
- 4) The Respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- 5) The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- 6) The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence.
- 7) The School's Prohibited Conduct which is outlined in the school catalog prohibits knowingly making false statements or knowingly submitting false information that exposes the person about whom it is made to hatred, contempt or ridicule or subjects that person to loss of the good will and confidence of others or so harms that person's reputation as to deter others from associating with them.

If, in the course of an investigation, the School decides to investigate additional allegations of sex discrimination by the Respondent toward the Complainant that are not included in the written notice or that are included in a complaint that is consolidated, the School will notify the parties written notice of the additional allegations.

Dismissal of a Complaint

The School may dismiss a complaint if:

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

Upon dismissal, the School will promptly notify the Complainant in writing of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the School will notify the parties simultaneously in writing.

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

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

- 1) Offer supportive measures to the Complainant as appropriate;
- 2) If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and
- 3) Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the School's education program or activity.

Investigation

The School will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the School not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The School will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

The School will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- The School will not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding.
- The School may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

The School will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

The School will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The School will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The School will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- 1) The School will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence.
- 2) The School will provide a reasonable opportunity to review and respond to the evidence or the investigative report.
- 3) The School will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

Questioning the Parties and Witnesses

The School provides a process that enables the decisionmaker or investigator to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

The decisionmaker or investigator will ask the parties and witnesses relevant and not otherwise impermissible questions and follow-up questions, including those challenging credibility during individual meetings that will be scheduled by the decisionmaker or investigator before determining whether sex-based harassment occurred.

Each party will be allowed to propose to the decisionmaker or investigator relevant and not otherwise impermissible questions and follow-up questions including questions challenging credibility that the party wants asked of any party or witness and have those questions asked during individual meetings including follow-up meetings with the parties.

Each party will be provided with either an audio recording or transcript with enough time for

the party to have a reasonable opportunity to propose follow-up questions.

The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the School will:

- 1) Use the *preponderance of the evidence* standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- 2) Notify the parties in writing of the determination whether sex-based harassment occurred under Title IX including:
 - a. A description of the alleged sex-based harassment;
 - b. Information about the policies and procedures that The School used to evaluate the allegations;
 - c. When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions The School will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by The School to the Complainant, and, to the extent appropriate, other students identified by The School to be experiencing the effects of the sex-based harassment; and
 - d. The School's procedures and permissible bases for the Complainant and Respondent to appeal.
- 3) The School will not impose discipline on a Respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the Respondent engaged in prohibited sex discrimination.
- 4) If there is a determination that sex discrimination occurred, the Title IX Coordinator will:
 - a. Coordinate the provision and implementation of remedies to a Complainant and other people the School identifies as having had equal access to the School's education program or activity limited or denied by sex discrimination;
 - b. Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
 - c. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the School's education program or activity.
- 5) Comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent; and

- 6) Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Appeals

The school will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- 1) Procedural irregularity that would change the outcome;
- 2) New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- 3) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, The School will:

- 1) Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- 2) Implement appeal procedures equally for the parties;
- 3) Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- 4) Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- 5) Communicate to the parties in writing that the School will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging the outcome; and
- 6) Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal The School offers will be equally available to all parties.

Disciplinary Sanctions and Remedies

Following a determination that sex-based harassment occurred, the School may impose disciplinary sanctions, which may include:

Student Sanctions

- 1) *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any School policy, procedure, or directive will result in more severe sanctions/responsive actions.
- 2) *Required Counseling*: A mandate to meet with and engage in external counseling to better comprehend the misconduct and its effects.
- 3) *Probation*: A written reprimand for violation of School policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any School policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges,

exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.

- 4) *Permanent Order of No Contact*: An order which forbids any type of in-person or virtual interaction between the Complainant and Respondent during their remaining period of enrollment.
- 5) *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the School.
- 6) *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend School-sponsored events.

Employee Sanctions:

- 1) *Warning – Verbal or Written*
- 2) *Required Counseling*
- 3) *Written Warning with Probation*
- 4) *Termination*
- 5) *Other Actions*: In addition to or in place of the above sanctions, the School may impose any other sanction as deemed appropriate.

The School may also provide remedies with respect to the parties and/or campus community that are intended to stop the harassment, discrimination, and/or retaliation remedy the effects, and prevent reoccurrence. Remedies may include but are not limited to:

- 1) Referral to counseling and health services
- 2) Education to the individual and/or the community
- 3) Climate surveys
- 4) Policy modification
- 5) Training or awareness campaigns
- 6) Implementation of long-term contact limitations between the parties
- 7) Adjustments to academic deadlines, course schedules, etc.
- 8) Modified campus security measures

Failure to Comply with Disciplinary Sanctions or other Remedies

Respondents are expected to comply with any disciplinary sanction or remedy as set forth in the final determination or in response to a final outcome. Failure to abide by the sanction(s)/action(s) whether by refusal, neglect, or any other reason, may result in additional disciplinary action.

V. Pregnancy or Related Conditions

The School does not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions.

When a student or a person who has a legal right to act on behalf of a student (i.e. parent, guardian,

or authorized legal representative) informs any employee of the student's pregnancy or related conditions, the employee must promptly provide the person with the Title IX Coordinator's contact information and inform the person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the School's education program or activity.

Once the student or person who has a legal right to act on behalf of the student informs the Title IX Coordinator of the student's pregnancy or related conditions, the Title IX Coordinator will provide the person with the School's notice of nondiscrimination and resources available to them: These resources include:

- 1) Reasonable modifications to accommodate the student's pregnancy or related condition. These include, but are not limited to:
 - a) Breaks during class to express breast milk, breastfeed, or attend to health needs associated with the pregnancy or related condition.
 - b) Eating, drinking, or using the restroom
 - c) Intermittent absences to attend medical appointments
 - d) Extensions of time for coursework and rescheduling of tests and examinations.
- 2) Voluntary leaves of absence.
- 3) Lactation space. The School provides a clean, secure, and private space for expressing breast milk and breastfeeding. It is located on the 1st floor of the Van Keulen building between the Student Lounge and Museum.

The School will not require supporting documentation for a student's pregnancy or related condition unless it is necessary and reasonable for the School to determine the reasonable modifications for the student.

The School will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the School's class, program, or activity unless the certified level of physical ability is necessary for participation, and the School requires such certification of all students participating in the class, program, or activity.

VI. Record Retention and Policy Revision

Record Retention

The School shall maintain the following records related to the implementation of this Policy for at least seven years:

1. Reports or complaints alleging sex discrimination or sex-based harassment.
2. Records of any dismissal of a complaint.
3. Each sex discrimination or sex-based harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
4. Any disciplinary sanctions imposed on the Respondent;

5. Any Remedies implemented by the School designed to restore or preserve equal access to the School's education program or activity;
6. Any appeal and the result therefrom;
7. Any Informal Resolution and the result therefrom;
8. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The School will make these training materials publicly available on the School's website and;
9. Any actions, including any supportive measures, taken in response to a report or complaint of sex discrimination or sex-based harassment.

Revision of this Policy

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation under Title IX and will be reviewed and updated subject to any relevant change in law or School policy, and on a recurring periodic basis, by the Title IX Coordinator. The School reserves the right to make changes to this Policy as necessary, which become effective when published.

This Policy will not restrict any rights guaranteed against government action by the U.S. Constitution and should be interpreted accordingly and should also be construed to comply with the most recent government regulations or applicable judicial decisions.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 1st, 2024.

VII. Appendix A: Definitions

Complainant. A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

Complaint. An oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

Consent. A knowing and voluntary agreement to engage in specific sexual activity at the time of the activity communicated through clear actions and/or words that are mutually understood. In order to be valid, consent must be active, present and ongoing. Consent is not present when it is the result of coercion, intimidation, force or threat of harm. Consent is not present when an individual is incapacitated due to alcohol, drugs or sleep or otherwise without capacity to provide consent due to intellectual or other disability or condition. Consent can be withdrawn at any time and consent to one form of sexual activity is not necessarily consent to other forms of sexual activity.

Consolidated Complaint. A complaint with more than one Complainant or Respondent arising when multiple parties submit formal complaints arising out of the same facts and circumstances and as deemed appropriate for consolidation by the Title IX Coordinator.

Disciplinary sanctions. Consequences imposed on a Respondent following a determination under Title IX that the Respondent violated the recipient's prohibition on sex discrimination.

Education Program or Activity. Locations, events, or circumstances where the School exercises substantial control over both the Respondent and the context in which the alleged sexual harassment or discrimination occurs including locations and contexts in which the School exerts disciplinary authority. Any building owned or controlled by the School or by a student organization that is officially recognized by the School.

Determination: A decision rendered and provided in writing to the parties of a Complaint after application of the School's Grievance Process concluding whether or not Respondent is responsible for conduct alleged within a Complaint in violation of this Policy.

Grievance Process. The method of formal resolution designated by the School to address conduct that falls within the scope of this Policy, and which complies with the requirements of 34 CFR Part 106.45 and 106.46.

Decision-maker(s). A trained, unbiased, and objective individual with responsibility for making a Final Determination as set forth in the School's Grievance Process.

Investigator. A trained, unbiased, and objective individual responsible for fulfilling the School's burden of gathering and evaluating all evidence related to allegations within a Complaint as required under the School's Grievance Process.

Parties. A Complainant or Respondent.

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

Remedies. Measures provided, as appropriate, to a Complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

Respondent. A person who is alleged to have violated the recipient's prohibition on sex discrimination.

Retaliation. Intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations, including peer to peer retaliation.

Sanction. A disciplinary consequence imposed by the School on a Respondent who is found to have violated this Policy.

Title IX Coordinator. The School's employee responsible for ensuring compliance with Title IX.

Title IX Personnel. Those individuals collectively tasked with implementation of this Policy and Grievance Process including specifically, the Title IX Coordinator (including any designees as applicable), any Investigator, Decision-maker, or Facilitator of Informal Resolution.