

Hazelden Betty Ford Graduate School

**Sex Discrimination and Sex-Based
Harassment Policy & Title IX Grievance
Procedures**

SEX DISCRIMINATION AND SEX-BASED HARASSMENT POLICY

I. POLICY STATEMENT

Hazelden Betty Ford Graduate School (the “Graduate School”), part of the Hazelden Betty Ford Foundation (the “Foundation”) is committed to providing a learning and working environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex. Discrimination on the basis of sex (“Sex Discrimination”) includes discrimination on the basis of sex stereotypes, sex characteristics, sexual orientation, gender identity, pregnancy or related conditions, and parental status. The Graduate School considers Sex Discrimination in all its forms to be a serious offense.

Consistent with the Graduate School’s Non-Discrimination Notice and the U.S. Department of Education’s implementing regulations for Title IX of the Education Amendments of 1972 (“Title IX”) (see 34 C.F.R. § 106 et seq.), the Graduate School prohibits Sex Discrimination in all of its Education Programs or Activities. This prohibition extends to all aspects of the Graduate School’s Education Programs or Activities, including, but not limited to, admissions, employment, academics, and student services.

II. SCOPE

This policy applies to all Graduate School employees, including staff, faculty, and administrators; students; applicants for employment; customers; third-party contractors; and all other persons that participate in the Graduate School’s Education Programs or Activities, including third-party visitors on campus (the “Graduate School Community”). This policy applies to Sex Discrimination that occurs within the Graduate school’s Education Programs or Activities and that is committed by a member of the Graduate School Community.

This Policy does not apply to Sex Discrimination that occurs outside the scope of the Graduate School’s Education Programs or Activities. Nevertheless, the Graduate School will address a sex-based hostile environment under its Education Programs or Activities even when some conduct alleged to be contributing to the hostile environment occurred outside the Education Programs or Activities or outside of the United States.

This policy prohibits Sex Discrimination when the complainant and alleged perpetrator are members of the same or opposite sex, and it applies regardless of national origin, immigration status, or citizenship status.

While this policy is the exclusive policy governs Complaints involving allegations of Sex Discrimination that occurs within the Graduate School’s Education Programs or Activities, reports or complaints of Sex Discrimination may implicate conduct that violates other Graduate School policies and standards. The Graduate School retains full discretion to enforce its other policies and standards with respect to applicable conduct, whether prior to, at the same time as, or after allegations of Sex Discrimination have been resolved pursuant to this policy.

III. TITLE IX STATEMENT

It is the policy of the Graduate School to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, Title VII of the Civil Rights Act of 1964, and other applicable state and local laws which prohibit discrimination based on sex in the Graduate School's Education Programs or Activities. The Graduate School's prohibition on Sex Discrimination extends to all aspects of its operations, including admissions and employment. Title IX and its implementing regulations also prohibit retaliation for asserting claims of Sex Discrimination. The Graduate School has designated a Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of Sex Discrimination:

Title IX Coordinator
15251 Pleasant Valley Road
PO Box 11, Mail Stop CO9
Center City, MN 55012
TitleIX@hazeldenbettyford.edu

A person may also make a Complaint of Sex Discrimination with the United States Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting www2.ed.gov/about/offices/list/ocr/complaintintro.html or by calling 1-800-421-3481.

The Graduate School encourages members of the Graduate School community to report any and all instances of Sex Discrimination, even if they are unsure whether the conduct rises to the level of a policy violation.

IV. DEFINITIONS

- A. "Complaint" means an oral or written request to the Graduate School that objectively can be understood as a request for the Graduate School to investigate and make a determination about alleged discrimination.
- B. "Complainant" means a student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination, or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination and who was participating or attempting to participate in the Graduate School's education program or activity at the time of the alleged Sex Discrimination.
- C. "Consent" refers to words or actions that a reasonable person in the perspective of the Respondent would understand as agreement to engage in the sexual conduct at issue. A person who is incapacitated is not capable of giving Consent.
- D. "Incapacitated" refers to the state where a person does not appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition or disability, or due to a state of unconsciousness or sleep.
- E. "Disciplinary sanctions" means consequences imposed on a respondent following a

determination under Title IX that the respondent violated the Graduate School's prohibition on Sex Discrimination.

- F. "Education Programs or Activities" refers to all the operations of the Graduate School, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, dining services, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the Graduate School. It also includes off-campus locations, events, or circumstances over which the Graduate School exercises substantial control over the Respondent and the context in which the Sex Discrimination occurs.
- G. "Parental status" means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is a biological parent, adoptive parent, foster parent, or stepparent; a legal custodian or guardian; in loco parentis with respect to such a person; or actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- H. "Peer retaliation" means retaliation by a student against another student.
- I. "Pregnancy or related conditions" means pregnancy, childbirth, termination of pregnancy, or lactation, including related pregnancy-related medical conditions and/or recovery.
- J. "Respondent" means a person who is alleged to have violated the Graduate School's prohibition on sex discrimination.
- K. "Retaliation" means intimidation, threats, coercion, or discrimination against any person by the Graduate School, a student, or an employee or other person authorized by the Graduate School to provide aid, benefit, or service under the Graduate School's education program or activity, for the purpose of interfering with any right or privilege recognized by this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding under this policy, including in a grievance procedure.
- L. "Sex-Based" means on the basis of:
 - 1. Sex
 - 2. Sex stereotypes
 - 3. Sex characteristics
 - 4. Pregnancy or related conditions
 - 5. Sexual orientation

6. Gender identity.

M. “Sex-Based Harassment” is a form of Sex Discrimination and means sexual harassment and other harassment on the basis of sex, that is:

1. Quid Pro Quo Harassment: an employee, agent, or other person authorized to act on behalf of the Graduate School explicitly or impliedly conditioning the provision of 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); or
3. Specific Offenses:
 1. 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;
 2. Dating violence, meaning violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim;
 3. Domestic violence, meaning felony or misdemeanor crimes committed by a person who is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the Minnesota, or a person similarly situated to a spouse of the victim; is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; shares a child in common with the victim; or commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of Minnesota; or
 4. Stalking, meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

N. “Supportive Measures” are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to the Graduate School’s Education Programs or Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or the Graduate School’s education environment, to deter sex-based harassment, or to provide support to a party during the Graduate School’s grievance procedures or in resolution process.

V. UNDERSTANDING HOSTILE ENVIRONMENT HARASSMENT

In determining whether a hostile environment exists, the Graduate School will consider the totality of circumstances, including the degree to which the unwelcome sex-based conduct affected the Complainant's ability to access the Graduate School's Education Programs or Activities; the nature and severity of the conduct at issue; the type, frequency, and duration of the conduct; the parties' roles and relationship to each other within the Graduate School, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct; the respective ages of the parties; the location and context in which the conduct occurred; and the number of persons affected. Hostile environment harassment may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

Some specific examples of conduct that may constitute hostile environment harassment include, but are not limited to:

- Pressure for a dating, romantic, or intimate relationship, or for sexual activity
- Unwelcome touching, kissing, hugging, rubbing, or massaging
- Unnecessary references to parts of the body
- Sexual innuendos, jokes, humor, or gestures
- Displaying sexual graffiti, pictures, videos, or posters
- Using sexually explicit language, including but not limited to profanity
- Asking or telling about sexual fantasies or sexual activities
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Commenting on a person's dress in a sexual manner
- Giving unwelcome personal gifts such as flowers, chocolates, or lingerie that suggest the desire for a romantic relationship
- Commenting on a person's body, gender, sexual relationships, or sexual activities
- Insulting, demeaning, or degrading another person based upon their gender identity or a perception that the other person fails to conform to stereotypical notions of expected characteristics for men and women

The above-listed examples may constitute sex-based harassment whether conducted in-person or electronically, for example, through email, text messages, or social media.

VI. UNDERSTANDING CONSENT

Lack of consent is a critical factor in determining whether sexual violence has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive.

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired by alcohol or

- drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.
- Warning signs of when a person may be incapacitated due to drug and/or alcohol use include slurred speech, falling down, passing out, and vomiting.
 - If a person is asleep or unconscious, there is no consent.
 - If a person is below the minimum age of consent in the applicable jurisdiction, there cannot be consent.
 - Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
 - Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.
 - Being in a romantic relationship with someone does not imply consent to any form of sexual activity.
 - Effective consent may not exist when there is a disparity in power between the parties (e.g., faculty/student, supervisor/employee).

VII. PREGNANCY AND PREGNANCY-RELATED CONDITIONS

The Graduate School will not discriminate against any student, employee, or applicant based on that person's current, potential, or past pregnancy or related conditions. The Title IX Coordinator is responsible for ensuring that pregnant students, employees, and applicants are treated equitably.

A. Students

1. Employee Reporting

When a student informs any employee of the student's pregnancy or related conditions, the employee shall promptly provide that student with the Title IX Coordinator's contact information and inform the student that the Title IX Coordinator can coordinate specific actions to prevent Sex Discrimination and ensure the student's equal access to the Graduate School's Education Programs or Activities.

2. Title IX Coordinator

When the Title IX Coordinator becomes aware of a student's pregnancy, the Title IX Coordinator shall provide the student with a copy of the Graduate School's notice of nondiscrimination and inform the student of the Graduate School's obligations to offer:

- Reasonable modifications to the Graduate School's policies, practices, or procedures, based on the student's individual need(s);
- Voluntary leave of absence and reinstatement upon return;
- Voluntary access to separate and comparable portion of the Education Program of Activity (for example, switching from in-person to online programming); and
- Clean, private lactation space which is not a bathroom.

The Title IX Coordinator shall not require supporting documentation unless the documentation is reasonable and necessary for the determination of reasonable modifications or other accommodations for the student; nor shall the Title IX Coordinator require a student who is pregnant or has a pregnancy-related condition to provide certification from a healthcare provider that the student is physically able to participate in the Education Programs or Activities.

B. Employees

The Graduate School shall treat pregnancy or related conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration, and extensions of leave; payment of disability income; accrual of seniority and any other benefit or service; reinstatement; and any fringe benefits offered to employees by virtue of employment.

The Graduate School shall treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities or any other right or privilege of employment.

Graduate School employees have access to lactation space which is clean, private, and not a bathroom. Employees shall be granted reasonable break time to express breast milk or breastfeed as needed.

VIII. ROLES AND RESPONSIBILITIES

A. Title IX Coordinator

It is the responsibility of the Title IX Coordinator to coordinate the Graduate School's efforts to comply with Title IX. The Title IX Coordinator shall respond promptly and effectively to any Sex Discrimination in the Graduate School's Education Programs and Activities, prevent its recurrence, and remedy its effects. The Title IX Coordinator's responsibilities include:

- Monitoring the Graduate School's Education Programs and Activities to identify conduct that could constitute Sex Discrimination and barriers to reporting Sex Discrimination, and take steps reasonably calculated to address any such barriers;
- Preventing discrimination against, and coordinate accommodations to ensure access for, students who are pregnant or have related conditions;
- Offering and coordinating supportive measures to students affected by Sex Discrimination, including Sex-Based Harassment;
- Receiving Complaints and reports from Graduate School faculty or staff regarding conduct that might constitute sex-based discrimination;
- Treating complainants and respondents equitably and notifying affected individuals of their rights;

- Ensuring that employees and students are aware of the procedures for reporting Complaints of Sex Discrimination;
- Implementing the Title IX Grievance Procedures, including determining whether to initiate a complaint as Title IX coordinator;
- Ensuring compliance with Title IX recordkeeping requirements.

B. Administrators, Deans, Department Chairs, and Other Managers

It is the responsibility of administrators, deans, department chairs, and other managers (i.e., those that formally supervise other employees) to:

- Inform employees under their direction or supervision of this policy
- Work with the Title IX Coordinator to implement education and training programs for employees and students
- Implement any corrective actions that are imposed as a result of findings of a violation of this policy

C. Employees – Reporting Requirement

Throughout this policy, the term “employees” includes all faculty, staff, and administrators. It is the responsibility of employees to review this policy and comply with it.

All Graduate School employees also have a duty to report Sex Discrimination to the Title IX Coordinator when they receive a report of such conduct, witness potential Sex Discrimination, or learns of potential Sex Discrimination through some other means. This includes employees who may have a professional license requiring confidentiality if they are not employed by the Graduate School in that professional role. An employee not reporting Sex Discrimination as required by this policy may be disciplined accordingly, up to and including termination.

D. Students

It is the responsibility of students to review this policy and comply with it.

IX. REPORTING SEX DISCRIMINATION

Any person, whether the person reporting is the person alleged to be the victim of conduct that could constitute Sex Discrimination, including Sex-Based Harassment, may report Sex Discrimination to the Title IX Coordinator. Reports may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. In- person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours.

All members of the Graduate School Community should be aware that all employees at the Graduate School, other than those identified as confidential resources in the next section,

have an obligation to report information about Sex Discrimination to the Title IX Coordinator and they may not keep this information confidential.

X. CONFIDENTIAL RESOURCES

If a victim desires to talk confidentially about his or her situation, the Student Assistance Program (SAP) is an available resource. Please see section 6 of the College Catalog and Student Handbook for information on accessing the SAP.

XI. SPECIAL ADVICE FOR INDIVIDUALS REPORTING SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING

If you are the victim of sexual assault, domestic violence, dating violence, or stalking, do not blame yourself. These crimes are never the victim's fault. When a physical crime of violence has been perpetrated against you, the Graduate School recommends that you immediately go to the emergency room of a local hospital and contact local law enforcement, in addition to making a prompt complaint under this policy.

If you are the victim of sexual assault, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. As necessary to preserve evidence, victims of sexual violence, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.

It is also important to take steps to preserve other types of evidence such as letters, emails, text messages, social media posts, etc., rather than evidence of physical contact and violence. While preserving these types of evidence is important in all situations, they may be the only evidence available in cases of stalking.

In addition to making a complaint of sexual assault, domestic violence, dating violence, or stalking to the Graduate School, the Complainant has several other options such as, but not limited to:

- Contacting law enforcement. However, whether to notify law enforcement is a decision that will be left to the victim in most cases, and the Graduate School recognizes a victim's right to decline to report to law enforcement.
- Contacting parents or a relative
- Seeking legal advice
- Seeking personal counseling (always recommended)
- Receiving assistance with accessing fair and respectful health care and counseling services
- Pursuing legal action against the perpetrator
- Pursuing a Complaint through the Graduate School

- Requesting that no further action be taken
- Requesting further information about the Graduate School's policy and procedures for addressing Sex Discrimination
- Requesting further information about available resources

If a victim elects to report an incident to law enforcement, at the request of the victim, Graduate School personnel, as designated by the Title IX Coordinator, will provide prompt assistance in notifying the appropriate law enforcement officials.

XII. RESOURCES

Any individual affected by or accused of Sex Discrimination will have equal access to support and counseling services offered through the Graduate School. The Graduate School encourages any individual who has questions or concerns to seek support of Graduate School identified resources. The Title IX Coordinator is available to provide information about the Graduate School's policy and procedure and to provide assistance.

Resources for counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims of Sex Discrimination can be found below:

Institutional Resources

- Student Assistance Program. To access services, please call 1-800-383-1908. To access web-based information, please see the log-in and password information within the Student Assistance Program pdf document available in Populi shared files.
- Student Financial Aid – Sometimes a victim of a crime may feel the need to take a leave of absence from school. If a student is considering a leave of absence based on the circumstances of a complaint, he/she should understand there may be financial aid implications in taking such leave. This should be discussed with financial aid personnel, and the Title IX Coordinator can assist in facilitating this conversation if desired. The institution's financial aid website can be found at www.hazeldenbettyford.org/education/graduate-school-addiction-studies/admissions-aid/financial-aid

State/Local Resources

- Fairview Lakes Medical Center, 5200 Fairview Blvd, Wyoming, MN 55092. (651) 982-7000. <https://www.mhealthfairviewpediatrics.org/locations/M-Health-Fairview-Lakes-Medical-Center---Wyoming>
- St. Croix Regional Medical Center, 235 E State St, St Croix Falls, WI 54024. (800) 642-1336. <https://www.saintcroixhealth.org/>
- Fairview Counseling Services--Chisago City, 11725 Stinson Ave, Chisago City, MN 55013. (651) 257-8499. <https://www.mhealthfairview.org/locations/M-Health-Fairview-Clinic---Chisago-City>
- Canvas Health crisis help and counseling, 555 West Broadway Avenue, Suites 2

- & 3, Forest Lake, MN. Sexual Assault Crisis: (651) 777-1117.
<https://www.canvashealth.org/crisis-support/>
- Washington County Crisis Line, Stillwater, MN. (651) 777-4455.
<https://www.washingtoncountymn.gov/2923/Crisis-Response>
- LawHelpMN. <https://www.lawhelpmn.org/issues/abuse-violence-crime-victims-rights/sexual-assault-and-other-crime-victims>

National Resources

- National Domestic Violence Hotline: 1-800-799-7233
- National Sexual Assault Hotline: 1-800-656-4673
- Rape, Abuse and Incest National Network (RAINN): <https://www.rainn.org/>
- US Dept. of Justice Office on Violence Against Women:
<https://www.justice.gov/ovw>
- National Coalition Against Domestic Violence: <http://www.ncadv.org/>
- National Sexual Violence Resource Center: <http://www.nsvrc.org/>
- U.S. Citizenship and Immigration Services: <https://www.uscis.gov/>
- Immigration Advocates Network: <https://www.immigrationadvocates.org/>

Please contact the Title IX Coordinator if you have any questions about these resources or need assistance in accessing them.

XIII. PRELIMINARY ASSESSMENT

Upon receipt of a report made pursuant to Section VIII, the Title IX Coordinator will conduct a preliminary assessment to determine:

- Whether the conduct, as reported, falls or could fall within the scope of the policy specified in Section II; and
- Whether the conduct, as reported, constitutes or could constitute Sex Discrimination.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the policy, and/or could not constitute Sex Discrimination, even if investigated, the Title Coordinator will close the matter and may notify the reporting party if doing so is consistent with the Family Educational Rights and Privacy Act (“FERPA”). The Title IX Coordinator may refer the report to other Graduate School offices, as appropriate.

If the Title IX Coordinator determines that the conduct reported could fall within the scope of the policy, and/or could constitute Sex Discrimination, if investigated, the Title IX Coordinator will proceed to contact the Complainant as specified in Section XIV.

As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Complainant, if such identity is not apparent from the report.

XIV. CONTACTING THE COMPLAINANT

If a report is not closed as a result of the preliminary assessment specified in Section XIII and the Complainant's identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures specified in Section XV; to discuss and consider the Complainant's wishes with respect to such Supportive Measures; to inform the Complainant of the availability of such Supportive Measures with or without filing a Complaint; to explain the process for making a Complaint; and to advise the Complainant of the investigation and adjudication procedures set forth in this policy. The Complainant will also be provided options for filing complaints with the local police and information about resources that are available on campus and in the community.

XV. SUPPORTIVE MEASURES

If a report is not closed as a result of the preliminary assessment specified in Section XIII, the Title IX Coordinator will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to make a Complaint.

Contemporaneously with the Respondent being notified of a Complaint, the Title IX Coordinator will notify the Respondent of the availability of Supportive Measures for the Respondent, and the Graduate School will offer and make available Supportive Measures to the Respondent in the same manner in which it offers and makes them available to the Complainant. The Graduate School will also offer and make available Supportive Measures to the Respondent prior to the Respondent being notified of a Complaint, if the Respondent requests such measures.

Supportive Measures that burden a Respondent will only be imposed after a Complaint is made and will be terminated at the conclusion of the investigation and adjudication process. Supportive Measures that burden a Respondent must be no more restrictive of the Respondent than is necessary to restore or preserve the Complainant's access to the Graduate School's Education Programs or Activities and will not be imposed for punitive or disciplinary reasons.

For Supportive Measures, other than those that burden a Respondent, the Graduate School may, as appropriate, modify or terminate such Supportive Measures at the conclusion of the investigation and adjudication process, or the Graduate School may continue them beyond that point.

Either party may request that the Title IX Coordinator modify, augment, or terminate Supportive Measures, after their imposition, if circumstances have changed materially.

If a party affected by Supportive Measures qualifies as a person with a disability under applicable law, the Title IX Coordinator may consult, as appropriate, with the individual or office at the Graduate School designated to provide support to persons with disabilities to ensure that the Graduate School complies with relevant disability law in the implementation of Supportive Measures.

Supportive Measures may include counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures. Supportive Measures

may also include mutual restrictions on contact between the parties implicated by a report.

Supportive Measures are available regardless of whether the individual chooses to report the crime to local law enforcement. The Graduate School will maintain the confidentiality of Supportive Measures provided to either a Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the Graduate School's ability to provide the Supportive Measures in question.

Failure to comply with the terms of any Supportive Measures that have been implemented may constitute a separate violation of this policy.

If a Complainant has obtained an ex parte order of protection, full order of protection, or any other temporary restraining order or no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the Complainant should provide such information to the Title IX Coordinator. The Graduate School, in conjunction with law enforcement or other Graduate School officials as necessary, will take all reasonable and legal action to implement the order.

If a party is affected by the Title IX Coordinator's decision to provide, deny, modify, augment, or terminate Supportive Measures, and wishes to seek a modification or reversal of the decision, the party may appeal the matter to the Graduate School's President/CEO. Such an appeal must be made in writing and generally must be made within seven (7) days of the date the party is notified of the decision that the party wishes to appeal, provided, however, that the [insert title of official] may hear appeals made outside the seven (7) day window for good cause shown, after considering all the facts and circumstances. If the Supportive Measures at issue in an appeal are ones that may affect the other party, the [insert title of official] will notify the potentially affected party and allow that party to submit a written response, prior to deciding the appeal. The decision of the [insert title of official] is final and not subject to further review.

If a Supportive Measure burdens the Respondent, the Respondent will be given an opportunity to appeal the imposition of the Supportive Measure prior to the Supportive Measure taking effect unless such pre-imposition appeal is impractical, in which case the Respondent will be given an opportunity to appeal as soon as possible after the Supportive Measure has taken effect.

XVI. INTERIM REMOVAL

At any time after receiving a report of Sex Discrimination, the Title IX Coordinator may remove a student Respondent from one or more of the Graduate School's Education Programs or Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sex Discrimination justifies removal. In the event the Title IX Coordinator imposes an interim removal, the Title IX Coordinator must offer to meet with the Respondent within twenty-four hours and provide the Respondent an opportunity to challenge the interim removal. In the event the Title IX Coordinator imposes an interim removal, the interim removal is subject to appeal pursuant to the appeal procedure specified in "Supportive Measures."

In the case of a Respondent who is a non-student employee (administrator, faculty, or staff), and in its discretion, the Graduate School may place the Respondent on administrative leave at any time after receiving a report of Sex Discrimination, including during the pendency of the investigation and adjudication process specified in the Title IX Grievance Procedures.

For all other Respondents, including independent contractors and guests, the Graduate School retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Sex Discrimination or otherwise.

XVII. COMPLAINTS

A person may make a Complaint with the Title IX Coordinator requesting that the Graduate School investigate and adjudicate a report of Sex Discrimination in accordance with the Title IX Grievance Procedures, provided, however, that the person must (1) meet the definition of Complainant; (2) be a person who has the legal right to act on the Complainant's behalf; (3) be the Title IX Coordinator; or (4) with respect to Complaints of Sex Discrimination other than Sex-Based Harassment, be a Student or Employee or a third-party who is participating or attempting to participate in the Graduate School's education programs or activities when the alleged Sex Discrimination occurred. The Graduate School encourages persons to make complaints of Sex Discrimination as soon as possible because late reporting may limit the Graduate School's ability to investigate and respond to the conduct complained of. The Complainant must have been participating in, or attempting to participate in, one or more of the Graduate School's Education Programs or Activities at the time of the alleged Title IX violation.

A Complainant may file a Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified in Section III above.

So that the Graduate School has sufficient information to investigate, the Complaint may include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the Complainant so that the Graduate School may follow up appropriately.

In deference to the agency of alleged victims of Sex Discrimination, the Title IX Coordinator will exercise the authority to make a Complaint only after careful consideration of multiple factors suggests there is an immediate and serious threat to the health or safety of the Complainant or other person or where not making a Complaint would prevent the Graduate School from maintaining a non-discriminatory environment. Such factors to be considered include: (1) the Complainant's request not to proceed with initiation of a complaint; (2) the Complainant's reasonable safety concerns regarding initiation of a Complaint; (3) the risk of additional Sex Discrimination; (4) the severity of the alleged Sex Discrimination, including whether the discrimination, if established, would require the removal of the Respondent from campus or imposition of another disciplinary

sanction to end the discrimination and prevent its recurrence; (5) the age and relationship of the parties involved; (6) whether the alleged perpetrator is an Employee; (7) the scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination, or Sex Discrimination alleged to have impacted multiple individuals; (8) the availability of evidence; and (9) whether the Graduate School could end the alleged Sex Discrimination and prevent its recurrence without initiating the investigation and adjudication procedures.

A Complaint for allegations of Sex Discrimination, excluding Sex-Based Harassment, may be made by a person who observes or becomes aware of the potential discrimination, provided that the person is a student, employee, or other person who is participating or attempting to participate in the Graduate School's Education Programs or Activities at the time of the alleged Sex Discrimination.

If the Title IX Coordinator makes a Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures.

If the Complainant or the Title IX Coordinator files a Complaint, then the Graduate School will commence an investigation and proceed to adjudicate the matter as specified in Section II of the Title IX Grievance Procedures. In all cases where a Complaint is filed, the Complainant will be treated as a party, irrespective of the party's level of participation.

In a case where the Title IX Coordinator makes a Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

If the Title IX Coordinator elects not to make a Complaint, and no other person makes a Complaint, the Title IX Coordinator will still evaluate the need for and, if appropriate, implement other prompt and effective steps to ensure that Sex Discrimination does not continue or recur in the Graduate School's Education Programs or Activities and to remedy its effects, if any.

XVIII. CONSOLIDATION OF COMPLAINTS

The Graduate School may consolidate Complaints as to allegations of Sex-Based Harassment where the allegations arise out of the same facts or circumstances. Where the investigation and adjudication process involve more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable. A Complaint of Retaliation may be consolidated with a Complaint of Sex Discrimination.

XIX. DISMISSAL PRIOR TO COMMENCEMENT OF INVESTIGATION

Any time after a Complaint is made, the Title IX Coordinator will evaluate the Complaint and may dismiss it if the Title IX Coordinator determines:

- The Graduate School is unable to identify the Respondent after taking reasonable steps to do so.
- The Respondent is not participating in the Graduate School's education programs or activities and is not employed by the Graduate School.
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, in writing, and the Title IX Coordinator determines that without the withdrawn allegations, the conduct that remains part of the Complaint, if any, would not constitute Sex Discrimination even if proven.
- After first taking reasonable efforts to clarify the allegations, the Title IX Coordinator determines that the conduct alleged in the Complaint, even if proven, would not constitute Sex Discrimination.

Upon dismissal, the Title IX Coordinator must promptly notify the Complainant of the dismissal and its basis, in writing. If the dismissal occurs after the Respondent has been notified of the Complaint, the Title IX Coordinator must also simultaneously notify the Respondent of the dismissal and its basis, in writing. The written notice to the Complainant and/or the Respondent, as applicable must advise the party of their right to appeal the dismissal pursuant to the procedures specified in "Appeals."

Even when a Complaint is dismissed, the Complainant and, as applicable, the Respondent, are still eligible for Supportive Measures as set forth in "Supportive Measures," and the Title IX Coordinator shall evaluate whether to take other prompt and effective steps to ensure that Sex Discrimination does not continue in the Graduate School's education programs or activities.

XX. NOTICE OF COMPLAINT

Within five (5) business days of the Title IX Coordinator receiving a Complaint, the Title IX Coordinator will notify the Complainant and Respondent in writing that includes:

- A full copy of this policy and the Title IX Grievance Procedures, whether in physical or electronic form.
- Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identifies of the parties involved in the incident, the conduct alleged to constitute Sex Discrimination, and the date and location of the alleged incident, to the extent that information is available to the Graduate School.
- A statement that the Respondent is presumed not responsible for the alleged Sex Discrimination until an adjudication of responsibility is made final and that the parties will have an opportunity to present relevant evidence to a trained, impartial decisionmaker prior to such adjudication being made.
- A statement that the party is entitled to receive access to relevant evidence or to an investigative report that accurately summarizes the evidence; if the Graduate School provides the party with a summary of the relevant evidence, the parties will have an equal opportunity to access the relevant and not otherwise impermissible

evidence upon the request of any party.

- Notification to the Complainant and Respondent of the Graduate School's prohibitions on Retaliation and false statements.
- If the case is one involving Sex-Based Harassment and a student Complainant or student Respondent, a statement that the party may be accompanied by an advisor of their choice, who may be an attorney, and who is permitted to fulfill the role.

If there are legitimate concerns for the safety of any person because of providing the written notice of Complaint, providing such written notice may be reasonably delayed to address the safety concern appropriately. Safety concerns that would justify delay of providing the written notice must be based on an individualized safety and risk analysis and not mere speculation or stereotypes. In any event, the written notice of Complaint will be provided to a party sufficiently in advance of their initial investigative interview such that the party has sufficient time to prepare.

If, in the course of an investigation, the Graduate 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 has been consolidated, the Graduate School will notify the parties of the additional allegations.

XXI. CONDUCT THAT CONSTITUTES A CRIME

Any person who wishes to make a complaint of Sex-Based Harassment that also constitutes a crime—including sexual violence, domestic violence, dating violence, or stalking—is encouraged to make a complaint to local law enforcement.

If requested, the Graduate School will assist the complainant in notifying the appropriate law enforcement authorities. In the event of an emergency, please contact 911. A victim may decline to notify such authorities.

This policy sets forth the Graduate School's processes for responding to reports and Complaints of Sex Discrimination. The Graduate School's processes are separate, distinct, and independent of any criminal processes. The pendency of a criminal investigation does not relieve the Graduate School of its responsibilities under Title IX. While the Graduate School may temporarily delay its processes under this policy to avoid interfering with law enforcement efforts if requested by law enforcement, the Graduate School will otherwise apply this policy and its processes without regard to the status or outcome of any criminal process.

XXII. VENDORS, CONTRACTORS, AND THIRD PARTIES

This policy applies to the conduct of vendors, contractors, and third parties. Members of the Graduate School Community who believe they have been subject to Sex Discrimination in violation of this policy by a vendor, contractor, or other third party can make a complaint to the Title IX Coordinator.

Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this policy, the Graduate School retains its right to limit any vendor, contractor, or third-party's access to campus for any reason. And the Graduate School retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this policy.

XXIII. RETALIATION

It is a violation of this policy to retaliate against any member of the Graduate School Community who reports or makes a complaint of Sex Discrimination or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this policy should make a complaint to the Title IX Coordinator.

Any report or Complaint of Retaliation will be processed under this policy in the same manner as a report or Complaint of Sex Discrimination, as the case may be. The Graduate School retains discretion to consolidate a Complaint of Retaliation with a Complaint of Sex Discrimination for investigation and/or adjudication purposes if the two Complaints share a common nexus.

XXIV. CONFIDENTIALITY AND SHARING INFORMATION

The Graduate School will keep confidential the identity of any individual who has made a report or Complaint of Sex Discrimination or Retaliation including any Complainant, the identity of any individual who has been reported to be a perpetrator of Sex Discrimination or Retaliation including any Respondent, and the identity of any witness. This does not prevent the disclosure of the identity of the Complainant and Respondent to one another as permitted below.

The Graduate School will also maintain the confidentiality of its various records generated in response to reports and Complaints, including, but not limited to, information concerning Supportive Measures, notices, investigation materials, adjudication records, and appeal records.

Notwithstanding the foregoing, the Graduate School may reveal the identity of any person or the contents of any record if permitted by FERPA, if necessary to carry out the Graduate School's obligations under Title IX and its implementing regulations including the conduct of any investigation, adjudication, or appeal under this policy or any subsequent judicial proceeding, or as otherwise required by law. Further, notwithstanding the Graduate School's general obligation to maintain confidentiality as specified herein, the parties to a report or Complaint will be given access to investigation and adjudication materials in the circumstances specified in this policy.

While the Graduate School will maintain confidentiality specified in this Section, the Graduate School will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Sex Discrimination or Retaliation in certain circumstances and be subject to discipline pursuant to the processes

specified in this policy.

Note that certain types of Sex-Based Harassment are considered crimes for which the Graduate School must disclose as crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally identifying information.

XXV. RESOLUTION

Administrators, faculty member, staff, students, contractors, guests, and other members of the Graduate School community who commit Sex Discrimination are subject to the full range of discipline including verbal reprimand; written reprimand; mandatory training, coaching, or counseling; mandatory monitoring; partial or full probation; partial or full suspension; fines; permanent separation from the institution (i.e., termination or dismissal); physical restriction from Graduate School property; cancellation of contracts; and any combination of the same.

The Graduate School will provide persons who have experienced Sex Discrimination ongoing remedies as reasonably necessary to restore or preserve access to the Graduate School's Education Programs or Activities.

XXVI. VICTIMS' RIGHTS

In addition to the rights enumerated in this policy and the Title IX Grievance Procedures, victims of sexual assault, dating violence, domestic violence, stalking, and other forms of sexual violence have rights under the Crime Victims Bill of Rights, Minn. Stat. §§ 611A.01–611A.06, including the right to assistance from the Crime Victims Reimbursement Board and the commissioner of public safety, as well as the following additional rights under Minnesota law:

- To be treated with dignity by all members of the Graduate School community;
- To be free from suggestion that they are at fault for crimes or violations that occurred;
- To be free from suggestion that they should have acted in a different manner to avoid such a crime;
- To make a report with local law enforcement officials;
- The complete and prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a sexual assault incident;
- The assistance of campus authorities in preserving for a sexual assault complainant or victim materials relevant to a campus disciplinary proceeding;
- At the request of the victim, providing a student who reported sexual assault to the

Graduate School and subsequently choose to transfer to another postsecondary institution with information about resources for victims of sexual assault at the institution to which the victim is transferring; and

- Consistent with laws governing access to student records, providing a student who reported an incident of sexual assault with access to the student's description of the incident as it was reported to the Graduate School, including if that student transfers to another postsecondary institution.

Additionally, to the extent it does not otherwise conflict with the requirements of other sections of this policy, Complainants and Respondents have the right to decide when and whether to repeat a description of an alleged incident of Sex Discrimination.

XXVII. AMNESTY

A witness or victim of an incident of sexual assault who reports the incident in good faith shall not be sanctioned by the Graduate School for admitting in the report to a violation of the Graduate School's student conduct policy on the personal use of drugs or alcohol.

XXVIII. OTHER VIOLATIONS OF THIS POLICY

Alleged violations of this policy, other than violations of the prohibitions on Sex Discrimination and Retaliation, will be subject to review under the Student Code of Conduct for students, the Faculty Handbook for faculty, or other Graduate School or Foundation policies and standards for employees.

XXIX. OUTSIDE APPOINTMENTS, DUAL APPOINTMENTS, AND DELEGATIONS

The Graduate School retains discretion to retain and appoint suitably qualified persons who are not Graduate School employees to fulfill any function of the Graduate School under this policy, including, but not limited to, the investigator and/or appeals officer.

The Graduate School also retains discretion to appoint two or more persons to jointly fulfill the role of investigator and/or appeals officer.

The functions assigned to a given Graduate School official under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, and appeals officer, may, in the Graduate School's discretion, be delegated by such Graduate School official to any suitably qualified individual and such delegation may be recalled by the Graduate School at any time.

XXX. ACADEMIC FREEDOM

While the Graduate School is committed to the principles of free inquiry and free expression, Sex Discrimination is neither legally protected expression nor the proper exercise of academic freedom.

XXXI. EDUCATION

Because the Graduate School recognizes that the prevention of Sex Discrimination is important, it offers educational programming to a variety of groups such as: campus personnel; incoming students and new employees participating in orientation. Among other elements, such training will cover relevant definitions, procedures, and sanctions; will provide safe and positive options for bystander intervention; and will provide risk reduction information, including recognizing warning signs of abusive behavior and how to avoid potential attacks. To learn more about education resources, please contact the Title IX Coordinator.

TITLE IX GRIEVANCE PROCEDURES

I. GENERAL PRINCIPLES

A. Applicability

These Title IX Grievance Procedures apply to the resolution of all Complaints under the Sex Discrimination Policy.

B. Administration

For purposes of these Title IX Grievance Procedures, “investigator” means the individual(s) designated by the Title IX Coordinator to investigate a Complaint. The investigator shall have responsibility for administering these Title IX Grievance Procedures. During an investigation, the investigator may receive counsel from Graduate School administrators, the Graduate School’s attorneys, or other parties as needed.

C. Fairness and Impartiality

These procedures provide for fair and impartial investigations and resolutions. All Graduate School officials involved in the investigation process shall discharge their obligations under these Title IX Grievance Procedures fairly and impartially. If an involved Graduate School official determines that he or she cannot apply these procedures fairly and impartially because of the identity of a Complainant, Respondent, or witness, or due to any other conflict of interest, another appropriate individual will be designated to administer these procedures.

D. Privacy

The Graduate 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.

1. Treatment Records and Other Privileged Information

During the investigation and adjudication processes, the investigator and adjudicator are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use:

- A party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party; or
- Information or records protected from disclosure by any other legally recognized privilege, such as the attorney client privilege;

unless the Graduate School has obtained the party’s voluntary, written consent to do so for the

purposes of the investigation and adjudication process.

Notwithstanding the foregoing, the investigator and/or adjudicator may consider any such records or information otherwise covered by this Section if the party holding the privilege affirmatively discloses the records or information to support their allegation or defense.

2. Sexual History of the Complainant

During the investigation and adjudication processes, questioning regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Notwithstanding the foregoing, a Complainant who affirmatively uses information otherwise considered irrelevant by this Section for the purpose of supporting the Complainant's allegations, may be deemed to have waived the protections of this Section.

E. Rights of the Parties

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

During the investigation, the investigator 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 investigator will not restrict the ability of the parties to gather and present relevant evidence on their own. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that such testimony would be irrelevant or impermissible.

The investigation is a party's opportunity to present testimonial and other evidence that the party believes is relevant to resolution of the allegations in the Complaint. A party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

F. Presumption of Non-Responsibility

From the time a report or Complaint is made, a Respondent is presumed not responsible for the alleged sex discrimination until a determination regarding responsibility is made final. The Graduate 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.

G. Evidentiary Standard

In making any determination on the resolution of the complaint, the evidentiary standard is the preponderance of the evidence; that is, whether it is more likely than not that Sex Discrimination occurred.

H. Training

The Graduate School will assure that Graduate School officials acting under this policy, including but not limited to the Title IX Coordinator, investigators, Graduate School–provided advisors, and appeals officers receive training in compliance with 34 C.F.R. § 106.8(d)(4) and any other applicable federal or state law. Such training will include issues related to sex discrimination, sexual assault, domestic violence, dating violence, and stalking and how to conduct an investigation that protects the safety of victims and promotes accountability.

II. INVESTIGATION AND RESOLUTION OF A SEX DISCRIMINATION COMPLAINT

A. INVESTIGATION

1. Commencement

During the investigation, the Complainant will have the opportunity to describe their allegations and present supporting witnesses or other evidence. The Respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The investigator will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to provide complete and truthful information.

If either the Complainant or Respondent needs additional time to prepare or to gather witnesses or information, they shall notify the investigator in writing explaining how much additional time is needed and why it is needed. The investigator shall promptly respond to any such request.

2. Proceedings

Any party whose participation is invited or expected shall be provided 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 investigator's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

The investigator will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted.

3. Documentation of Investigation

The investigator will take reasonable steps to ensure the investigation is documented.

Interviews of the parties and witnesses may be documented by the investigator's notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator's sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation.

4. Access to the Evidence

At the conclusion of the evidence-gathering phase of the investigation, but prior to the completion of the investigation report, the investigator will transmit to each party and their advisor, in either electronic or hard copy form, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Complaint, including inculpatory or exculpatory evidence whether obtained from a party or some other source. Thereafter, the parties will have ten (10) calendar days in which to submit to the investigator a written response, which the investigator will consider prior to completing the investigation report.

The parties and their advisors are permitted to review the evidence solely for the purposes of this grievance process and may not photograph or disseminate the evidence to the public.

5. Investigation Report

After the period for the parties to provide any written response as specified in Section II.A.4 has expired, the investigator will complete a written investigation report that fairly summarizes the various steps taken during the investigation, summarizes the relevant evidence collected, lists material facts on which the parties agree, and lists material facts on which the parties do not agree. When the investigation report is complete, the investigator will transmit a copy to the Title IX Coordinator. The investigator will also transmit the investigation report to each party and their advisor, in either electronic or hard copy form.

B. RESOLUTION

1. Deliberation and Determination

The Title IX Coordinator will appoint an adjudicator whose responsibility it will be to adjudicate the Complaint. Within three (3) days of being notified about the adjudicator's identity, either party may raise concerns, if any, about bias or conflict of interest to the Title IX Coordinator or, if the concerns relate to the Title IX Coordinator as adjudicator, to the President/CEO. The adjudicator may be the investigator or the Title IX Coordinator themselves. The investigation report and its appended evidence will be transmitted to the adjudicator.

The adjudicator will promptly send written notice to the parties notifying the parties of the adjudicator's appointment; setting a deadline for the parties to submit a written response to the investigation report and its appended evidence which shall not be sooner than seven

(7) days from the date the investigator transmitted the investigation report; and setting a date and time for each party to meet with the adjudicator separately. The adjudicator's meetings with the parties will not be held any earlier than ten (10) days from the date the investigator transmitted the investigation report to the parties.

A party's written response to the investigation report must include:

- To the extent the party wishes to respond to any aspect of the investigation report or evidence, any such response.
- A statement as to whether the party contends the credibility of the other party or any witness is in dispute; if so, how such credibility dispute is relevant in evaluating any of the allegations in the Complaint; and what questions the party contends should be asked to the party or witness to test credibility.
- Any argument that a particular piece or class of evidence should be categorically excluded from consideration at the hearing based on any one or more of the standards specified in these grievance procedures.
- Argument regarding whether any of the allegations in the Complaint are supported by a preponderance of the evidence.
- Argument regarding whether any of the allegations in the Complaint constitute Sex Discrimination.

While the party may receive assistance in preparing the written response, the written response must be submitted and signed by the party themselves or someone with legal authority to act on their behalf.

After reviewing the parties' written responses to the investigation report, the adjudicator will meet separately with each party to ask questions concerning the party's written response, the investigation report, and/or the evidence collected during the investigation, including questions that may bear on credibility. The adjudicator may also meet with specific witnesses whose credibility is in dispute, and whose testimony is potentially relevant in evaluating any allegations in the Complaint, to pose questions that may bear on credibility.

After meeting with each party and any witness whose credibility is in dispute, the adjudicator will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The adjudicator will take care to exclude from consideration any evidence that was ruled inadmissible by operation of Section I.D. The adjudicator will resolve disputed facts using a preponderance of the evidence (i.e., "more likely than not") standard and reach a determination regarding whether the facts that are supported by a preponderance of the evidence constitute one or more violations of the policy as alleged in the Complaint. If the adjudicator is not persuaded under the applicable standard by the evidence that Sex Discrimination occurred, whatever the quantity of the evidence is, the

adjudicator will not determine that Sex Discrimination occurred.

2. Discipline and Remedies

In the event the adjudicator determines that the Respondent is responsible for violating this policy, the adjudicator will, prior to issuing a written decision, consult with an appropriate Graduate School official with disciplinary authority over the Respondent and such official will determine any discipline to be imposed. The adjudicator will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing supportive measures or other remedies will be provided to the Complainant. The adjudicator may seek legal advice from the Graduate School's in-house or outside counsel.

3. Written Decision

After reaching a determination and consulting with the appropriate Graduate School official and Title IX Coordinator as required by Section II.B.2, the adjudicator will prepare a written decision that will include:

- Identification of the allegations potentially constituting Sex Discrimination made in the Complaint;
- A description of the procedural steps taken by the Graduate School upon receipt of the Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, and methods used to gather non-testimonial evidence;
- Information about the policies and procedures that the Graduate School used to evaluate the allegations;
- The adjudicator's evaluation of the relevant and not otherwise impermissible evidence and determination whether Sex Discrimination occurred;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Sex Discrimination, including a determination regarding responsibility for each separate potential incident;
- Articulated findings of fact, made under a preponderance of the evidence standard, that support the determination;
- If the adjudicator determines that Sex Discrimination occurred, any discipline determined by the appropriate Graduate School official as referenced in Section II.B.2;
- Whether the Complainant and/or any other students identified by the Graduate School to be experiencing the effects of the Sex Discrimination will receive any ongoing

support measures or other remedies as determined by the Title IX Coordinator; and

- A description of the Graduate School's process and grounds for appeal, as specified in Section III.

The adjudicator's written determination will be transmitted to the parties and the Title IX Coordinator. Transmittal of the written determination to the parties concludes the investigation, subject to any right of appeal as specified in Section III.

Content in the written decision regarding ongoing Supportive Measures and other remedies for the Complainant, if applicable, may be redacted from the version of the written report shared with the Respondent, to the extent necessary to comply with this Policy and FERPA. Transmittal of the written decision to the parties concludes the adjudication process, subject to any right of appeal as specified in "Appeals." Any discipline imposed will be stayed pending the completion of any appeal.

Although the length of time needed to issue the written decision will vary depending on the totality of the circumstances, the Graduate School strives to issue the adjudicator's written decision within thirty (30) days of the adjudicator's appointment.

4. Procedures Following a Determination that Sex Discrimination Occurred

If there is a determination that Sex Discrimination occurred, as appropriate, the Title IX Coordinator will:

- Coordinate the provision and implementation of remedies to the Complainant and other people the Graduate School identifies as having had equal access to the Graduate School's education program or activity limited or denied by Sex Discrimination;
- Coordinate the imposition of any disciplinary sanctions on the Respondent, including notification to the Complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that Sex Discrimination does not continue or recur within Graduate School's Education Program or Activity.

III. APPEALS

Either party may appeal the determination or a dismissal of a Complaint, on one or more of the following grounds:

- A procedural irregularity that would change the determination of whether a policy violation occurred;
- There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;

- The Title IX Coordinator, investigator, or adjudicator had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome.

No other grounds for appeal are permitted.

A party must file an appeal within seven (7) business days of the date they receive notice of dismissal or determination appealed from or, if the other party appeals, within three (3) business days of the other party appealing, whichever is later. The appeal must be submitted in writing to the President/CEO, who serves as the appeal officer. The appeal officer will be an individual who did not take part in the investigation of the allegations or dismissal of the Complaint. The appeal must specifically identify the determination and/or dismissal appealed from, articulate which one or more of the three grounds for appeal are being asserted, explain in detail why the appealing party believes the appeal should be granted, and articulate what specific relief the appealing party seeks.

Promptly upon receipt of an appeal, the appeal officer will conduct an initial evaluation to confirm that the appeal is timely filed and that it invokes at least one of the permitted grounds for appeal. If the appeal officer determines that the appeal is not timely, or that it fails to invoke a permitted ground for appeal, the appeal officer will dismiss the appeal and provide written notice of the same to the parties.

If the appeal officer confirms that the appeal is timely and invokes at least one permitted ground for appeal, the appeal officer will provide written notice to the other party that an appeal has been filed and that the parties may submit a written statement in support of, or challenging, the outcome within seven (7) business days. The appeal officer shall also promptly obtain from the Title IX Coordinator any records from the investigation and adjudication necessary to resolve the grounds raised in the appeal.

Upon receipt of any opposition, or after the time period for submission of an opposition has passed without one being filed, the appeal officer will promptly decide the appeal and transmit a written decision to the parties that explains the outcome of the appeal and the rationale.

The determination of a Complaint, including any discipline, becomes final when the time for appeal has passed with no party filing an appeal or, if any appeal is filed, at the point when the appeal officer has resolved all appeals, either by dismissal or by transmittal of a written decision.

No further review beyond the appeal is permitted.

Although the length of each appeal will vary depending on the totality of the circumstances, the Graduate School strives to issue the appeal officer's written decision within (21) business days of an appeal being filed.

IV. CONFLICTS OF INTEREST, BIAS, AND PROCEDURAL COMPLAINTS

The Title IX Coordinator, investigator, adjudicator and appeals officer will be free of any

material conflicts of interest or material bias. Any party who believes one or more of these Graduate School officials has a material conflict of interest or material bias must raise the concern promptly so that the Graduate School may evaluate the concern and find a substitute, if appropriate. The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any appeal specified in Section III or otherwise.

V. OBJECTIONS GENERALLY

Parties are expected to raise any objections, concerns, or complaints about the investigation, adjudication, and appeals process in a prompt and timely manner so that the Graduate School may evaluate the matter and address it, if appropriate.

VI. RECORDINGS

Wherever this policy specifies that an audio recording will be made, the recording will be made only by the Graduate School and is considered property of the Graduate School, subject to any right of access that a party may have under this policy, FERPA, and other applicable federal, state, or local laws. Only the Graduate School is permitted to make audio recordings under this policy. The surreptitious recording of any meeting, interview, or other interaction contemplated under this policy is strictly prohibited.

VII. SPECIAL PROCEDURE CONCERNING COMPLAINTS AGAINST THE PRESIDENT, THE TITLE IX COORDINATOR, OR OTHER ADMINISTRATORS RANKED HIGHER THAN THE TITLE IX COORDINATOR

If a complaint involves alleged conduct on the part of the Graduate School's President, the Graduate School's Board of Governors ("Board") will designate the investigator and oversee the investigation and adjudication process. Based on the outcome of the adjudication, the Board will implement any sanctions or remedial measures.

If a complaint involves alleged conduct on the part of the Title IX Coordinator or any administrator ranked higher than the Title IX Coordinator, the President/CEO will designate the Investigating Officer and oversee the investigation and adjudication process. Based on the outcome of the adjudication, the President/CEO will implement any sanctions or remedial measures.

VIII. BAD FAITH COMPLAINTS AND FALSE INFORMATION

The Graduate School will not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

It is a violation of this policy for any person to submit a report or Complaint that the person knows, at the time the report or Complaint is submitted, to be false or frivolous. It is also a violation of this policy for any person to knowingly make a materially false statement

during an investigation, adjudication, or appeal under this policy. Violations of this Section are not subject to the investigation and adjudication processes in this policy; instead, they will be addressed under the Code of Student Conduct in the case of students and other Graduate School policies and standards, as applicable, for other persons.

IX. DOCUMENTATION

Throughout all stages of the investigation and resolution, the investigator and the Title IX Coordinator are responsible for maintaining documentation of the investigation, including documentation of all proceedings conducted under these Title IX Grievance Procedures, which may include written findings of fact, transcripts, and audio recordings.

The Graduate School will retain those records specified in 34 C.F.R. § 106.45(b)(10) for a period of seven years after which point in time they may be destroyed, or continue to be retained, in the Graduate School's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

X. INTERSECTION WITH OTHER PROCEDURES

While this Policy is the exclusive policy governing Sex Discrimination that occurs within the Graduate School's Education Programs or Activities, Reports and Complaints of Sex Discrimination may implicate conduct that violates other Graduate School policies and standards. The Graduate School retains full discretion to enforce its other policies and standards with respect to applicable conduct, whether prior to, at the same time as, or after allegations of Sex Discrimination have been resolved pursuant to this Policy.