

**Hazelden Betty Ford Graduate School of
Addiction Studies**

**Sexual Harassment Policy & Title IX
Grievance Procedures**

SEXUAL HARASSMENT POLICY

I. POLICY STATEMENT

Hazelden Betty Ford Graduate School of Addiction Studies (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. 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 Sexual Harassment that occurs within 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.

As further defined herein, Sexual Harassment includes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

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 prohibits Sexual Harassment 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.

This policy does not apply to Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of the Graduate School’s Education Programs or Activities; such Sexual Harassment may be prohibited by the Student Code of Conduct if committed by a student, the Faculty Handbook if committed by a faculty member, or other Graduate School or Foundation policies and standards.

This policy does not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in the Graduate School’s Education Programs or Activities, such as a study abroad program. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student, the Faculty Handbook if

committed by a faculty member, or other Graduate School or Foundation policies and standards if committed by an employee.

Complaints involving allegations of sex discrimination that do not meet the definition of Sexual Harassment under this Policy are governed by the Graduate School's Non-Discrimination Policy and Code of Conduct Procedures, and the faculty Handbook if committed by a faculty member, or other Graduate School or Foundation policies and standards.

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 which prohibit discrimination based on sex in the Graduate School's Education Programs or Activities. Title IX and its implementing regulations also prohibit retaliation for asserting claims of sex discrimination. The Graduate School has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of Sexual Harassment:

Dr. Valerie Slaymaker
Title IX Coordinator
15251 Pleasant Valley Road
PO Box 11, CO9
Center City, MN 55012
651-213-4746
VSlaymaker@hazeldenbettyford.edu

A person may also file a complaint of Sexual Harassment 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.

IV. DEFINITIONS

- A. "Sexual Harassment" is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking. This term will be used throughout the remainder of this policy and the Title IX Grievance Procedures when collectively referring to these types of conduct.
- B. "Quid Pro Quo Sexual Harassment" is defined as an employee of the Graduate School conditioning the provision of an aid, benefit, or service of the Graduate School on an individual's participation in unwelcome sexual conduct.
- C. "Hostile Environment Sexual Harassment" is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and

objectively offensive that it effectively denies a person access to the Graduate School's Education Programs or Activities.

- D. "Sexual Assault" includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.¹
1. "Rape" is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. There is "carnal knowledge" if there is the slightest penetration of the vagina or penis by the sex organ of the other person. Attempted Rape is included.
 2. "Sodomy" is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 3. "Sexual Assault with an Object" is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.
 4. "Fondling" is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 5. "Incest" is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Minnesota law.
 6. "Statutory Rape" is sexual intercourse with a person who is under the statutory age of consent as defined by Minnesota law.
- E. "Domestic Violence" is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim,

¹ This policy's definition of "Sexual Assault" is mandated by federal regulations implementing Title IX of the Education Amendments of 1972. Those regulations require the Covered Entities to adopt a definition of "Sexual Assault" that incorporates various forcible and non-forcible sex crimes as defined by the FBI's Uniform Crime Reporting System. See 34 C.F.R. § 106.30(a).

by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Minnesota, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Minnesota.

- F. "Dating Violence" is violence committed by a person –
1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 2. Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.

- G. "Stalking" is 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.

Stalking can include conduct that occurs via electronic communications, including social media (i.e., cyberstalking).

- H. "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.
- I. "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.
- J. "Retaliation" is intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

- K. “Complainant” means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
- L. “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
- M. “Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the Graduate School investigate the allegation of Sexual Harassment in accordance with this policy. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the Graduate School’s Education Programs or Activities. A “document filed by a Complainant” means a document or electronic submission (such as an email) that contains the Complainant’s physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.
- 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, or to deter Sexual Harassment.
- O. “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 Sexual Harassment occurs.

V. UNDERSTANDING HOSTILE ENVIRONMENT SEXUAL HARASSMENT

In determining whether a hostile environment exists, the Graduate School will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. The Graduate School will evaluate the totality of circumstances from the perspective of a reasonable person in the Complainant’s position. A person’s adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

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

Some specific examples of conduct that may constitute Sexual Harassment if unwelcome include, but are not limited to:

- Unreasonable 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 profanity
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
- Social media use that violates this policy
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails or text messages
- 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 on gender or gender stereotypes

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. ROLES AND RESPONSIBILITIES

A. Title IX Coordinator

It is the responsibility of the Title IX Coordinator to: (1) ensure the Graduate School's compliance with Title IX; (2) identify and address any patterns or systemic problems of Sexual Harassment at the Graduate School; (3) coordinate dissemination of information and education and training programs; (4) receive Formal Complaints under this policy; (5) assist members of the Graduate School Community in understanding that Sexual Harassment is prohibited by this policy; (6) answer questions about this policy; (7) ensure that employees and students are aware of the procedures for reporting and addressing complaints of Sexual Harassment; and (8) to implement the Title IX Grievance Procedures or to designate appropriate persons for implementing the Title IX Grievance Procedures.

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 sexual Harassment to the Title IX Coordinator when they receive a report of such conduct, witness such conduct, or otherwise obtain information about such conduct. 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 sexual Harassment 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.

VIII. REPORTING SEXUAL HARASSMENT

Any person may report Sexual Harassment 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 sexual Harassment to the Title IX Coordinator and they may not keep this information confidential.

IX. 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.

X. 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 formal 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
- Contacting parents or a relative
- Seeking legal advice
- Seeking personal counseling (always recommended)
- Pursuing legal action against the perpetrator
- Pursuing a Formal 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 Sexual Harassment
- Requesting further information about available resources

XI. RESOURCES

Any individual affected by or accused of Sexual Harassment 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 Sexual Harassment 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.fairview.org/Locations/Fairview-Lakes-Medical-Center>*
- *St. Croix Regional Medical Center, 235 E State St, St Croix Falls, WI 54024. (800) 642-1336. <http://scrmc.org/>*
- *Fairview Counseling Services--Chisago City, 11725 Stinson Ave, Chisago City, MN 55013. (651) 257-8499. <https://www.fairview.org/locations/fairview-clinics-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/>*
- *ESS Emergency Social Services:651-291-6795(after 5pm and weekend); Shelter; transport for abuse victims <http://stpaulredcross.org/services/socialservices.html>*
- *Washington County Crisis Line, Stillwater, MN. (651) 777-4455. <https://www.co.washington.mn.us/>*
- *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.

XII. 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 Sexual Harassment.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the policy, and/or could not constitute Sexual Harassment, 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 Sexual Harassment, if investigated, the Title IX Coordinator will proceed to contact the Complainant as specified in Section XIII.

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.

XIII. CONTACTING THE COMPLAINANT

If a report is not closed as a result of the preliminary assessment specified in Section XII 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 XIV; 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 Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint. 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.

XIV. SUPPORTIVE MEASURES

If a report is not closed as a result of the preliminary assessment specified in Section VIII, the Graduate School will offer and make available Supportive Measures to the Complainant regardless of whether the Complainant elects to file a Formal Complaint.

Contemporaneously with the Respondent being notified of a Formal 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 Formal Complaint, if the Respondent requests such 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.

XV. INTERIM REMOVAL

At any time after receiving a report of Sexual Harassment, 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 Sexual Harassment 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 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 Sexual Harassment, including during the pendency of the investigation and adjudication process specified in Section II of 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 Sexual Harassment or otherwise.

XVI. FORMAL COMPLAINTS

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the Graduate School investigate and adjudicate a report of Sexual Harassment in accordance with the Title IX Grievance Procedures. The Graduate School encourages persons to make complaints of Sexual Harassment as soon as possible because late reporting may limit the Graduate School's ability to investigate and respond to the conduct complained of. At the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the Graduate School's Education Programs or Activities.

A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified in Section III above. No person may submit a Formal Complaint on the Complainant's behalf.

So that the Graduate School has sufficient information to investigate, the formal complaint should 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 any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of the Graduate School if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the Graduate School Community.

If the Complainant or the Title IX Coordinator files a Formal 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 Formal 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 files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

XVII. CONSOLIDATION OF FORMAL COMPLAINTS

The Graduate School may consolidate Formal Complaints as to allegations of Sexual 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 Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Sexual Harassment.

XVIII. DISMISSAL PRIOR TO COMMENCEMENT OF INVESTIGATION

In a case where the Complainant files a Formal Complaint, the Title IX Coordinator will evaluate the Formal Complaint and must dismiss it if the Title IX Coordinator determines:

- The conduct alleged in the Formal Complaint would not constitute Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of the policy specified in Section II (i.e., because the alleged conduct did not occur in the Graduate School's Education Programs or Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States).

In the event the Title IX Coordinator determines the Formal Complaint should be dismissed pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal as specified in Section IV of the Title IX Grievance Procedures. The Title IX Coordinator may refer the subject matter of the Formal Complaint to other Graduate School offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination for purposes of this policy, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

XIX. NOTICE OF FORMAL COMPLAINT

Within fifteen (15) business days of the Title IX Coordinator receiving a Formal Complaint, the Title IX Coordinator will transmit a written notice to the Complainant and Respondent that includes:

- A physical copy of this policy or a hyperlink to this policy;
- A copy of the document titled “Rights and Options After Filing a Complaint Under the Graduate School’s Sexual Harassment Policy.”
- Sufficient details known at the time so that the parties may prepare for an initial interview with the investigator, to include the identities of the parties involved in the incident (if known), the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident (if known);
- A statement that the Respondent is presumed not responsible for the alleged Sexual Harassment and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal;
- Notifying the Complainant and Respondent of their right to be accompanied by an advisor of their choice, as specified in Section II.A.4 of the Title IX Grievance Procedures.
- Notifying the Complainant and Respondent of their right to inspect and review evidence as specified in Section II.B.3 of the Title IX Grievance Procedures.
- Notifying the Complainant and Respondent of the Graduate School’s prohibitions on retaliation and false statements as specified in Section XXII of this policy and Section IX of the Title IX Grievance Procedures.
- Information about resources that are available on campus and in the community.

Should the Graduate School elect, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the Graduate School will provide a supplemental written notice describing the additional allegations to be investigated.

XX. CONDUCT THAT CONSTITUTES A CRIME

Any person who wishes to make a complaint of Sexual 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 Formal Complaints of Sexual Harassment. 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.

XXI. 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 Sexual Harassment 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.

XXII. RETALIATION

It is a violation of this policy to retaliate against any member of the Graduate School Community who reports or makes a formal complaint of Sexual Harassment or who participates in the investigation of a formal 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 Formal Complaint of Retaliation will be processed under this policy in the same manner as a report or Formal Complaint of Sexual Harassment, as the case may be. The Graduate School retains discretion to consolidate a Formal Complaint of Retaliation with a Formal Complaint of Sexual Harassment for investigation and/or adjudication purposes if the two Formal Complaints share a common nexus.

XXIII. CONFIDENTIALITY AND SHARING INFORMATION

The Graduate School will keep confidential the identity of any individual who has made a report or Formal Complaint of Sexual Harassment or Retaliation including any Complainant, the identity of any individual who has been reported to be a perpetrator of Sexual Harassment 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 Formal 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 Formal 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 Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this policy.

Note that certain types of Sexual 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.

XXIV. RESOLUTION

Administrators, faculty member, staff, students, contractors, guests, and other members of the Graduate School community who commit Sexual Harassment 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 Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the Graduate School's Education Programs or Activities.

XXV. VICTIM RIGHTS

In addition to the rights enumerated in this policy and the Title IX Grievance Procedures, victims of Sexual Harassment and other forms of sexual violence have the following additional rights under Minnesota law:

- To be treated with dignity;
- 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;
- 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.

XXVI. 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.

XXVII. OTHER VIOLATIONS OF THIS POLICY

Alleged violations of this policy, other than violations of the prohibitions on Sexual Harassment 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.

XXVIII. 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, hearing officer, informal resolution officer, and/or appeals officer.

The Graduate School also retains discretion to appoint two or more persons to jointly fulfill the role of investigator, hearing officer, informal resolution officer, 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, hearing officer, informal resolution officer, 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.

XXIX. ACADEMIC FREEDOM

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

XXX. EDUCATION

Because the Graduate School recognizes that the prevention of Sexual Harassment 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 Formal Complaints under the Sexual Harassment Policy. They apply to the resolution of Formal Complaints against students, faculty, administrators, staff, and third parties, and they are the exclusive means of resolving Formal Complaints of Sexual Harassment.

B. Administration

For purposes of these Title IX Grievance Procedures, “investigator” means the individual(s) designated by the Title IX Coordinator to investigate a Formal 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. Promptness, Fairness and Impartiality

These procedures provide for prompt, 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. Training

The Graduate School will assure that Graduate School officials acting under this policy, including but not limited to the Title IX Coordinator, investigators, hearing officers, informal resolution facilitators, Graduate School provided advisors, and appeals officers receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii) 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 THE FORMAL COMPLAINT

A. Preliminary Matters

1. Timing of the Investigation

The Graduate School will conclude its investigation and resolution of the Formal Complaint in a prompt manner, though timing is often based on many things, such as the facts of a case, the availability of the parties and witnesses, scheduling conflicts, etc. The investigator may require the production of information by the parties by a certain date in order to facilitate a timely resolution. Both the Complainant and the Respondent will be given periodic updates regarding the status of the investigation. 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. Informal Resolution

At any time after the parties are provided written notice of the Formal Complaint and before the completion of any appeal specified in Section IV, the parties may voluntarily consent, with the Title IX Coordinator's approval, to engage in mediation, facilitated resolution, or other form of dispute resolution the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties.

The specific manner of any informal resolution process will be determined by the parties and the Title IX Coordinator, in consultation together. Prior to commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the informal resolution process to be utilized;
- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another Graduate School official, or a suitable third-party);
- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution may commence. During the pendency of the informal resolution process, the investigation and

adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized. If informal resolution is reached, it will be documented in writing and signed by both parties. An informal resolution cannot be appealed.

Other language in this Section notwithstanding, informal resolution will not be permitted if the Respondent is a non-student employee accused of committing Sexual Harassment against a student.

3. Preponderance of the Evidence 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 Sexual Harassment occurred.

4. Advisor of Choice

From the point a Formal Complaint is made, and until an investigation, adjudication, and appeal are complete, the Complainant and Respondent will have the right to be accompanied by an advisor of their choice to all meetings, interviews, and hearings that are part of the investigation, adjudication, and appeal process. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the hearing specified in Section II.C.5, the advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with the Graduate School about the matter without the party being included in the communication. In the event a party's advisor of choice engages in material violation of the parameters specified in these Title IX Grievance Procedures, the Graduate School may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

In the event a party is not able to secure an advisor to attend the hearing specified in Section II.C.5, and requests the Graduate School to provide an advisor, the Graduate School will provide the party an advisor, without fee or charge, who will conduct questioning on behalf of the party at the hearing. The Graduate School will have sole discretion to select the advisor it provides. The advisor the Graduate School provides may be, but is not required to be, an attorney.

The Graduate School is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the hearing specified in Section II.C.5 and requests that the Graduate School provide an advisor.

5. Rights of the Parties

During the investigation, the investigator will provide an equal opportunity for the parties to be interviewed, to present witnesses (including fact and expert witnesses), and to present other inculpatory and exculpatory evidence. Notwithstanding the foregoing, the investigator retains discretion to limit the number of witness interviews the investigator conducts if the investigator finds that testimony would be unreasonably cumulative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant, as specified in Section II.A.7. The investigator will not restrict the ability of the parties to gather and present relevant evidence on their own.

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 Formal 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.

6. 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.

7. 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.

8. Presumption of Non-Responsibility

From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged misconduct until a determination regarding responsibility is made final.

B. INVESTIGATION

1. Commencement and Timing

After the written notice of Formal Complaint is transmitted to the parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the Graduate School and not with the parties.

During the investigation, the Complainant will have the opportunity to describe his or her 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.

The investigation will culminate in a written investigation report, specified in Section II.C.9, that will be submitted to the adjudicator. Although the length of each investigation may vary depending on the totality of the circumstances, the Graduate School strives to complete each investigation within thirty (30) to forty-five (45) calendar days of the transmittal of the written notice of Formal Complaint.

2. 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.

3. 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 Formal Complaint, including evidence the Graduate School may choose not to rely on at any hearing and 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.

4. Investigation Report

After the period for the parties to provide any written response as specified in Section II.B.3 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.

C. ADJUDICATION

1. Hearing Officer

After selection of the hearing process as the form of administrative adjudication, the Title IX Coordinator will promptly appoint a hearing officer who will oversee the hearing process and render a determination of responsibility for the allegations in the Formal Complaint, at the conclusion of the hearing process. The Title IX Coordinator will see that the hearing officer is provided a copy of the investigation report and a copy of all evidence transmitted to the parties by the investigator as specified in Section II.B.3.

2. Hearing Notice and Response to the Investigation Report

After the hearing officer is appointed by the Title IX Coordinator, the hearing officer will promptly transmit written notice to the parties notifying the parties of the hearing officer's appointment; setting a deadline for the parties to submit any written response to the investigation report; setting a date for the pre-hearing conference; setting a date and time for the hearing; and providing a copy of the Graduate School's Hearing Procedures. Neither the pre-hearing conference, nor the hearing itself, may be held any earlier than ten

(10) calendar days from the date of transmittal of the written notice specified in this Section.

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

- To the extent the party disagrees with the investigation report, any argument or commentary regarding such disagreement;
- Any argument that evidence should be categorically excluded from consideration at the hearing based on privilege, relevancy, the prohibition on the use of sexual history specified in Section II.A.7, or for any other reason;
- A list of any witnesses that the party contends should be requested to attend the hearing pursuant to an attendance notice issued by the hearing officer;
- A list of any witnesses that the party intends to bring to the hearing without an attendance notice issued by the hearing officer;
- Any objection that the party has to the Graduate School's Hearing Procedures;
- Any request that the parties be separated physically during the pre-hearing conference and/or hearing;
- Any other accommodations that the party seeks with respect to the pre-hearing conference and/or hearing;
- The name and contact information of the advisor who will accompany the party at the pre-hearing conference and hearing;
- If the party does not have an advisor who will accompany the party at the hearing, a request that the Graduate School provide an advisor for purposes of conducting questioning as specified in Section II.C.5.

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

- Argument regarding whether any of the allegations in the Formal Complaint are supported by a preponderance of the evidence; and
- Argument regarding whether any of the allegations in the Formal Complaint constitute Sexual Harassment.

3. Pre-Hearing Conference

Prior to the hearing, the hearing officer will conduct a pre-hearing conference with the parties and their advisors. The pre-hearing conference will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By

default, the pre-hearing conference will be conducted with the hearing officer, the parties, the advisors, and other necessary Graduate School personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

In the hearing officer's discretion, the pre-hearing conference may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

During the pre-hearing conference, the hearing officer will discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate; discuss whether any stipulations may be made to expedite the hearing; discuss the witnesses the parties have requested be served with notices of attendance and/or witnesses the parties plan to bring to the hearing without a notice of attendance; and resolve any other matters that the hearing officer determines, in the hearing officer's discretion, should be resolved before the hearing.

4. Issuance of Notices of Attendance

After the pre-hearing conference, the hearing officer will transmit notices of attendance to any Graduate School employee (including administrator, faculty, or staff) or student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the hearing officer immediately if there is a material and unavoidable conflict.

The subject of an attendance notice should notify any manager, faculty member, or other supervisor, as necessary, if attendance at the hearing will conflict with job duties, classes, or other obligations. All such managers, faculty members, coaches, and other supervisors are required to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified in the notice.

The Graduate School will not issue a notice of attendance to any witness who is not an employee or a student.

5. Hearing

After the pre-hearing conference, the hearing officer will convene and conduct a hearing pursuant to the Graduate School's Hearing Procedures. The hearing will be audio recorded. The audio recording will be made available to the parties for inspection and review on reasonable notice, including for use in preparing any subsequent appeal.

The hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the hearing will be conducted with the hearing officer, the parties, the advisors, witnesses, and other necessary Graduate School personnel together in the same physical location. However, upon request of either party, the parties

will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

In the hearing officer's discretion, the hearing will be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

While the Hearing Procedures and rulings from the hearing officer will govern the particulars of the hearing, each hearing will include, at a minimum:

- Opportunity for each party to address the hearing officer directly and to respond to questions posed by the hearing officer;
- Opportunity for each party's advisor to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other party and any witnesses, including questions that support or challenge credibility;
- Opportunity for each party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided;
- Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect;
- Opportunity for each party to make a brief closing argument.

Except as otherwise permitted by the hearing officer, the hearing will be closed to all persons except the parties, their advisors, the investigator, the hearing officer, the Title IX Coordinator, and other necessary Graduate School personnel. Apart from the investigator and the parties, witnesses will be sequestered until such time as their testimony is complete.

During the hearing, the parties and their advisors will have access to the investigation report and evidence that was transmitted to them pursuant to Section II.B.3.

While a party has the right to attend and participate in the hearing with an advisor, a party and/or advisor who materially and repeatedly violates the rules of the hearing in such a way as to be materially disruptive, may be barred from further participation and/or have their participation limited, as the case may be, in the discretion of the hearing officer.

Subject to the minimum requirements specified in this Section, the hearing officer will have sole discretion to determine the manner and particulars of any given hearing, including with respect to the length of the hearing, the order of the hearing, and questions of admissibility. The hearing officer will independently and contemporaneously screen questions for relevance in addition to resolving any contemporaneous objections raised by the parties and will explain the rationale for any evidentiary rulings.

The hearing is not a formal judicial proceeding and strict rules of evidence do not apply. The hearing officer will have discretion to modify the Hearing Procedures, when good cause exists to do so, and provided the minimal requirements specified in this Section are met.

6. Subjection to Questioning

In the event that any party or witness refuses to attend the hearing, or attends but refuses to submit to questioning by the parties' advisors, the statements of that party or witness, as the case may be, whether given during the investigation or during the hearing, will not be considered by the hearing officer in reaching a determination of responsibility.

Notwithstanding the foregoing, the hearing officer may consider the testimony of any party or witness, whether given during the investigation or during the hearing, if the parties jointly stipulate that the testimony may be considered or in the case where neither party requested attendance of the witness at the hearing.

In applying this Section, the hearing officer will not draw an inference about the determination regarding responsibility based solely on a party or a witness's absence from the live hearing and/or refusal to submit to questioning by the parties' advisors.

7. Deliberation and Determination

After the hearing is complete, the hearing officer will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness. The hearing officer will take care to exclude from consideration any evidence that was ruled inadmissible at the pre-hearing conference, during the hearing, or by operation of Section II.A.7. The hearing officer 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 Formal Complaint.

8. Discipline and Remedies

In the event the hearing officer determines that the Respondent is responsible for violating this policy, the hearing officer 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 hearing officer will also, prior to issuing a written decision, consult with the Title IX Coordinator who will determine whether and to what extent ongoing support measures or other remedies will be provided to the Complainant.

9. Written Decision

After reaching a determination and consulting with the appropriate Graduate School official and Title IX Coordinator as required by Section II.C.8, the hearing officer will prepare a written decision that will include:

- Identification of the allegations potentially constituting Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by the Graduate School upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Articulate findings of fact, made under a preponderance of the evidence standard, that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Sexual Harassment, including a determination regarding responsibility for each separate potential incident;
- The discipline determined by the appropriate Graduate School official as referenced in Section II.C.8;
- Whether the Complainant 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 IV.

The hearing officer's written determination will be transmitted to the parties. Transmittal of the written determination to the parties concludes the hearing process, subject to any right of appeal as specified in Section IV.

Although the length of each adjudication by hearing will vary depending on the totality of the circumstances, the Graduate School strives to issue the hearing officer's written determination within fourteen (14) business days of the conclusion of the hearing.

III. DISMISSAL DURING INVESTIGATION OR ADJUDICATION

The University shall dismiss a Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that one or more of the following is true:

- The conduct alleged in the Formal Complaint would not constitute Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of the policy specified in Section II (i.e., because the alleged conduct did not occur in the University's Education Programs and Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States).

The Graduate School may dismiss a Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent is no longer enrolled in the Graduate School or employed by the Graduate School or Foundation, as the case may be; or
- Specific circumstances prevent the Graduate School from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator determines that a Formal Complaint should be dismissed pursuant to this Section XIX, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal as specified in Section IV. The Title IX Coordinator may refer the subject matter of the Formal Complaint to other Graduate School offices, as appropriate. A dismissal pursuant to this Section is presumptively a final determination as it pertains to this policy, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

IV. APPEALS

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

- A procedural irregularity affected the outcome;
- 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 hearing officer 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 Title IX Coordinator who will appoint an appeal officer. 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 other party may submit a written opposition to the appeal 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 Formal 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.

V. CONFLICTS OF INTEREST, BIAS, AND PROCEDURAL COMPLAINTS

The Title IX Coordinator, investigator, hearing officer, appeals officer, and informal resolution facilitator 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 IV or otherwise.

VI. 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.

VII. RECORDINGS

Wherever this policy specifies that an audio or video 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 or video recordings under this policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this policy is strictly prohibited. Any party who wishes to transcribe a hearing by use of a transcriptionist must seek pre-approval from the hearing officer.

VIII. 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 will designate the Investigating Officer and oversee the investigation and adjudication process. Based on the outcome of the adjudication, the President will implement any sanctions or remedial measures.

IX. BAD FAITH COMPLAINTS AND FALSE INFORMATION

It is a violation of this policy for any person to submit a report or Formal Complaint that the person knows, at the time the report or Formal 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.

X. 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.

XI. INTERSECTION WITH OTHER PROCEDURES

These Title IX Grievance Procedures are the exclusive means of resolving complaints alleging violations of the Sexual Harassment Policy. To the extent there are any inconsistencies between these procedures and other Graduate School grievance, complaint, or discipline procedures, these procedures will control the resolution of complaints alleging violations of the Sexual Harassment Policy.