

# **AURORA UNIVERSITY**

## **Policy Statement A-2: Policy Prohibiting Discrimination, Sexual Misconduct, and Interpersonal Violence**

Updated 5.24.2023

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## **I. INTRODUCTION**

Aurora University (the “University”) is committed to providing a learning, working and living environment that promotes personal integrity, civility and mutual respect. Aurora University does not discriminate, or tolerate discrimination against any member of its community on the basis of race, color, national origin, ancestry, sex/gender, age, religion, disability, pregnancy, veteran status, marital status, sexual orientation, or any other status protected by applicable federal, state or local law in matters of admissions, employment, or in any aspect of the educational programs or activities it offers. A copy of the University Notice of Nondiscrimination is available [here](#).

On May 19, 2020, the Department of Education issued updated regulations implementing Title IX of the Education Amendments of 1972. Effective August 14, 2020, the updated regulations prohibit specific conduct, such as sexual assault occurring on campus and quid pro quo sexual harassment, proscribed by the Title IX Regulations on Sexual Harassment is addressed through the University’s Title IX Sexual Harassment Policy. The University’s Title IX Sexual Harassment Policy is available [here](#).

The University has adopted this Policy, the University’s Policy Prohibiting Discrimination, Sexual Misconduct and Interpersonal Violence to address sexual misconduct and interpersonal violence not covered by the updated Title IX regulations. This Policy also addresses sexual misconduct and interpersonal violence prohibited by the Illinois Preventing Sexual Violence in Higher Education Act.

In addition, this Policy prohibits (i) discrimination or harassment based on race, color, national origin, ancestry, age, religion, disability, veteran status, marital status, familial status, or genetic information; (ii) discrimination based on sex other than sexual misconduct, including discrimination or harassment based on gender identity, sexual orientation, or pregnancy; and (iii) discrimination based on any other protected status (hereinafter referred to as “other discrimination”).

Individuals impacted by conduct prohibited by this Policy may contact the Title IX Coordinator or other resources identified in this Policy to receive support and information even if they do not wish to move forward with the complaint resolution process described in Section IV this Policy.

### **A. Scope**

This Policy’s prohibitions against discrimination, harassment, sexual misconduct, and interpersonal violence apply to all students, faculty, and staff, to other members of the University community, as well as to contractors, consultants, and vendors doing business or providing services to the University. See the University’s Zero Tolerance Policy available [here](#).

This Policy applies to conduct that occurs within the University’s education program or activities. This policy also applies to off-campus conduct when the off-campus conduct (i) adversely impacts the education or employment of a member of the University community; or (ii) otherwise threatens the health and/or safety of a member of the University community. Under certain circumstances, online and electronic conduct may violate this Policy.

## **B. Definitions**

The following terms are used throughout this Policy:

1. **Complainant:** Throughout this Policy, the "Complainant" is the party alleging conduct violating this Policy and to whom the conduct was directed. In certain circumstances, the University itself may constitute the Complainant.
2. **Respondent:** Throughout this Policy, the "Respondent" is the party accused of violating this Policy.
3. **Third-Party Reporter:** An individual who reports alleged conduct violating the Policy occurring between individuals other than the Third-Party Reporter.

## **II. SEXUAL MISCONDUCT AND INTERPERSONAL VIOLENCE**

"Sexual misconduct," including sexual harassment, sexual assault, sexual violence, and sexual exploitation, is a form of sex discrimination and is prohibited by this Policy. "Interpersonal violence," including dating violence, domestic violence, and stalking, is also prohibited by this Policy.

### **A. Relationship to The Title IX Sexual Harassment Policy**

Other language in this Policy notwithstanding, "Title IX Sexual Harassment," as defined in the Title IX Sexual Harassment Policy, will be governed by the Title IX Sexual Harassment Policy and should be addressed according to the processes stated therein. All other forms of sexual misconduct and interpersonal violence-based discrimination are governed by this Policy, including sexual harassment, as defined in this Policy, that does not constitute Title IX Sexual Harassment as defined in the Title IX Sexual Harassment Policy.

Conduct that is initially raised through a formal complaint under the Title IX Sexual Harassment Policy may be addressed under this Policy, in the University's discretion, when: (i) the Formal Complaint, or an allegation included in the Formal Complaint, has been dismissed under the Title IX Sexual Harassment Policy and the dismissed conduct may constitute a violation of this Policy; or (ii) conduct not addressed through a final determination of Formal Complaint under the Title IX Sexual Harassment Policy may constitute a violation of this Policy.

### **B. Responsible University Personnel**

The University has designated the Dean of Students & Title IX Coordinator as the University official responsible for implementing this Policy's prohibitions against sexual misconduct, and interpersonal violence. This includes the coordination of training, education, communications, and administration of grievance procedures. The Dean of Students & Title IX Coordinator is also responsible for maintaining documentation of all reports of incidents of sexual harassment, sexual misconduct, and interpersonal violence, and for establishing a protocol for recordkeeping of such incidents. The Dean of Students & Title IX Coordinator is available to meet with or talk to students, faculty, or staff regarding questions or issues relating to this Policy and sexual misconduct or interpersonal violence.

The name and contact information for the Dean of Students & Title IX Coordinator is:

Allison Brady, Dean of Students & Title IX Coordinator  
Office location: Founders House 101  
Phone: (630) 844-4578  
Email: [abrady@aurora.edu](mailto:abrady@aurora.edu)

The following members of the University community have been designated to assist with the implementation and administration of this Policy's prohibitions against sexual misconduct or interpersonal violence. These individuals are trained to work with individuals who report or are accused of sexual misconduct, or interpersonal violence and have knowledge about on- and off-campus resources, services, and options—including the availability of supportive measures, as discussed below.

The Assistant Title IX Coordinators are also available to meet with or talk to students, faculty, or staff regarding questions or issues relating to sexual misconduct or interpersonal violence. Their contact information is below:

Ann Chan, Vice President for Human Resources and Assistant Title IX Coordinator  
Office location: Eckhart Hall 105C  
Phone: (630) 844-3866  
Email: [achan@aurora.edu](mailto:achan@aurora.edu)

Jim Hamad, Vice President for Athletics and Assistant Title IX Coordinator  
Office location: 247 Alumni Hall  
Phone: (630) 844-4910  
Email: [jhamad@aurora.edu](mailto:jhamad@aurora.edu)

Chris Smith, Assistant Dean of Students & Director of Campus Life and Assistant Title IX Coordinator  
Office location: 105A Eckhart Hall  
Phone: (630) 844-6143  
Email: [csmith@aurora.edu](mailto:csmith@aurora.edu)

Individuals may also contact the U.S. Department of Education's Office for Civil Rights or the Equal Employment Opportunity Commission for additional information.

U.S. Department of Education (Chicago Office)  
John C. Kluczynski Federal Building  
230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604  
Phone: (312) 730-1560  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

U.S. Equal Employment Opportunity Commission  
John C. Kluczynski Federal Building (Chicago Office)

230 S. Dearborn Street  
Chicago, IL 60604  
Telephone: (312) 872-9744

### **C. Prohibited**

Discrimination based on sex other than sexual misconduct, including discrimination or harassment based on gender identity, sexual orientation, or pregnancy; and discrimination based on any other protected status.

### **D. Conduct**

The following conduct is prohibited under this Policy. The University's Title IX Sexual Harassment Policy, criminal laws, and other applicable state laws may use different definitions of these terms.

#### **1. Sexual Misconduct**

The following offenses are considered Sexual Misconduct and are prohibited by this Policy.

a. **Sexual Harassment:** Sexual harassment is unwelcome communication or conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, or verbal, nonverbal or physical conduct of a sexual nature where such conduct is sufficiently serious (i.e., severe, pervasive, or persistent) as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities.

In considering whether conduct is sufficiently severe or pervasive to constitute sexual harassment, the University considers the totality of the circumstances, including the context, nature, scope, frequency, duration, and location of incidents, as well as the relationships of the persons involved.

While sexual harassment as defined here encompasses a wide range of conduct, some examples of specifically prohibited conduct include, but are not limited to:

- Pressure for or forced sexual activity;
- Unwelcome physical conduct that is sexual in nature such as touching, pinching, patting, grabbing, poking, kissing, hugging, massaging, or brushing against another individual's body;
- Offering or implying a job- or education-related reward (such as a pay increase, a favorable employment evaluation, a job promotion, a better grade, a letter of recommendation, favorable treatment in the classroom, assistance in obtaining employment, grants or fellowships, or admission to any educational program or activity) in exchange for sexual favors or submission to sexual conduct;
- Threatening or taking a negative employment or educational action (such as a reduction in pay, a negative employment evaluation, or a demotion, giving an unfair grade, withholding a letter of recommendation, or withholding assistance with any educational activity) or intentionally

making the individual's job or academic work more difficult because sexual advances are rejected;

- Pressure for a dating, romantic, or intimate relationship;
- Sexual posters, photos, pictures cartoons or graffiti;
- Unwelcome sexual advances;
- Repeated propositions or requests for a sexual relationship to an individual who has previously indicated that such conduct is unwelcome;
- Sexual gestures, noises, remarks, jokes, humor, innuendo; and,
- Unwelcome and/or unnecessary questions, or comments about a person's body, sexuality or sexual experience.

b. ***Sexual Assault***: Sexual assault is a particular type of sexual harassment that involves actual or attempted sexual contact with another person without that person's consent. Sexual assault may involve individuals who are known to one another or have an intimate and/or sexual relationship, or may involve individuals not known to one another. Sexual assault includes, but is not limited to:

- ***Non-Consensual Sexual Penetration***: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim or where the victim is incapable of giving consent. An "object" is anything used by the offender other than the offender's genitalia. Attempted Non-Consensual Sexual Penetration is included.
- ***Non-Consensual Sexual Contact***: 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 victim's age or because of victim's temporary or permanent mental incapacity.
- ***Incest***: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- ***Statutory Rape***: Non-forcible sexual intercourse with a person who is under the statutory age of consent as prohibited by law.

c. ***Sexual Exploitation***: Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another individual(s) for the person's own advantage or personal benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses in this Policy. Some possible examples of sexual exploitation include, but are not limited to:

- Prostituting another person;
- Non-consensual video or audiotaping of sexual activity;
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Knowingly transmitting an STD or HIV to another; and,



- Threatening to send, or the act of sending nude or incriminating photos to others regardless of whether they were originally obtained with consent.

## 2. Interpersonal Violence

Interpersonal violence means physical abuse, harassment, intimidation, interference with personal liberty, or willful deprivation of one person upon another person. Interpersonal violence includes:

a. **Domestic Violence**: Domestic violence is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws 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.

b. **Dating Violence**: Dating violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim;
- 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.

c. **Stalking**: Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress. For the purposes of these definition:

- "Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third-parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
- "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim; and
- "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Examples of stalking behavior include: following a person, conducting surveillance of the person, appearing at the person's home, work or school, making unwanted phone calls, sending unwanted emails or text messages, leaving objects for the person, vandalizing the person's property, or injuring a pet.

## E. Additional Definitions

### 1. Consent:

- Consent is informed, freely and actively given agreement to sexual activity and requires clear communication between all persons involved in a sexual encounter. It is the responsibility of the initiator of sexual contact to make sure they understand fully what the person with whom they are involved wants and does not want sexually.
- Consent is active, not passive. Consent can be communicated verbally or by actions. But in whatever way consent is communicated, it must be mutually understandable.
- Consent cannot be inferred from silence, lack of verbal or physical resistance, or submission resulting from the use or threat of force.
- Consent cannot be inferred from a person's manner of dress.
- Consent to one form of sexual activity does not constitute consent to other forms of sexual activity.
- Previous relationships or consent to past sexual activity does not constitute consent to future sexual acts.
- Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.
- Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior includes, but is not limited to:
  - Repeated or continued pressure by the sexual aggressor in an effort to engage in sexual contact with the individual.
  - Making repeated threats of harm if the individual does not want to participate in sexual contact.
  - Making the individual feel as if sexual contact is owed to the sexual aggressor.
  - Using manipulative comments to try to pressure the individual to engage in sexual contact.
  - Providing the individual with alcohol and/or drugs in an effort to decrease their inhibitions and decision-making capacity.
- Consent can be withdrawn at any time.
- A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:
  - The individual is incapacitated due to drug or alcohol consumption, either voluntarily or involuntarily;
  - The individual is unconscious, asleep, or otherwise unaware that sexual activity is occurring;
  - The individual is underage as prohibited by law; or
  - The individual cannot provide consent due to a mental disability or impairment.

The standard measure is whether a reasonable person should have known that consent had not been or could not be given.

2. **Incapacitation**: Incapacitation is a state where one cannot make a rational, reasonable decision to engage in sexual activity because they lack the ability to understand the fact, nature, or extent of the act (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction), and/or is physically helpless. For example, an individual is incapacitated, and therefore unable to give consent, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason.

- Where alcohol or other drugs are involved, one does not have to be intoxicated or drunk to be considered incapacitated. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's decision-making capacity, awareness of consequences and ability to make informed judgments, or capacity to appreciate the nature of the act. Whether a Respondent reasonably should have known that a Complainant was incapacitated will be evaluated using an objective reasonable person standard. The question is whether the Respondent knew, or a sober, reasonable person in the position of the Respondent, knew or should have known, that the Complainant was incapacitated.
- An individual may experience a blackout state in which they appear to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication or impairment.
- In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all parties. If there is any doubt as to the level or extent of the other individual's intoxication, it is safest to forgo or cease any sexual contact or activity.

The standard measure is whether a reasonable person should have known that consent had not been or could not be given.

#### **F. Prohibition Against Retaliation**

See Section IV for information regarding the University's prohibition against retaliation.

#### **G. Institutional Crime Reporting**

*The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (the "Clery Act") requires institutions of higher education to compile and publish statistics on certain criminal offenses including sexual assault, domestic and dating violence and stalking that occur on or adjacent to school properties. Although the University strongly encourages everyone to report any crime that

occurs on or around campus, the Clery Act requires certain crimes reported to a Campus Security Authority (CSA) be included in those annual statistics. Specifically, the Clery Act defines a Campus Security Authority as:

- A campus police or security department;
- Any individual or individuals who have responsibility for campus security but who do not constitute a campus police or security department . . . such as an individual who is responsible for monitoring entrance into institutional property;
- Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses; or
- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.

All crimes reported and documented under the Clery Act will be recorded in an anonymous manner that neither identifies the specifics of the crime or the identity of the Complainant. The University is also obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when the warning could potentially compromise law enforcement efforts or identify the victim/survivor). A Complainant under this Policy will never be identified in a timely warning.

## **H. Mandatory Reporting of Child Abuse, Child Sexual Abuse and Child Neglect**

All University employees<sup>1</sup> are mandated reporters under state law. Mandated reporters are required to immediately report to state authorities suspected child abuse and/or neglect when a child known to them in their professional or official capacity may be an abused or neglected child.

There is *no* option for confidentiality in the case of suspected child abuse, child sexual abuse and/or child neglect. In other words, all mandated reporters with reasonable cause to believe that a child known to them in their professional capacities may be abused, sexually abused or neglected are required to contact DCFS. Mandated reporters must also notify the Title IX Coordinator that a DCFS report has been made.

The University's Policy for Mandatory Reporting of Child Abuse, Child Sexual Abuse, and Child Neglect is available [HERE](#).

## **I. Reporting Options and Available Resources**

There are various reporting options and resources available to the University community for individuals who wish to make a complaint or report of sexual misconduct or interpersonal violence under this Policy. The University encourages its community members to report such conduct to one or more of the individuals or agencies identified below.

<sup>1</sup> University volunteers having regular contact with minors are also Mandated Reporters.

If you are in immediate danger, **call 911 for your local authorities**. See “Reporting to Law Enforcement” below for more information on reporting to law enforcement.

## 1. Reporting to the University

The University strongly encourages individuals, including third-party bystanders, to report incidents of sexual misconduct or interpersonal violence prohibited by this Policy to the Title IX Coordinator or an Assistant Title IX Coordinator.

The University will promptly and equitably investigate all suspected or alleged violations of this Policy. Although there is no specific time limit for reporting a suspected violation of this Policy, an individual who may have been subjected to conduct that violates this Policy is encouraged to contact an appropriate official as soon as possible after the alleged or suspected violation to discuss the available options for proceeding. Prompt reporting is strongly encouraged as it becomes more difficult to compile information relating to a grievance as the time increases between the alleged or suspected incident(s) and the report of the incident(s).

Incidents of sexual misconduct or interpersonal violence may be reported to:

- **Title IX Coordinator**

Allison Brady  
Founders House room 101  
Phone: (630) 844-4578  
Email: [abrady@aurora.edu](mailto:abrady@aurora.edu)

- **Assistant Title IX Coordinators**

Ann Chan, Vice President for Human Resources and Assistant Title IX Coordinator  
Office location: Eckhart Hall 105C  
Phone: (630) 844-3866  
Email: [achan@aurora.edu](mailto:achan@aurora.edu)

Jim Hamad, Assistant Vice President for Student Life/Athletic Director  
and Assistant Title IX Coordinator  
Office location: 247 Alumni Hall  
Phone: (630) 844-4910  
Email: [jhamad@aurora.edu](mailto:jhamad@aurora.edu)

Chris Smith, Assistant Dean of Students & Director of Campus Life and Assistant Title IX  
Coordinator  
Office location: 105A Eckhart Hall  
Phone: (630) 844-6143  
Email: [csmith@aurora.edu](mailto:csmith@aurora.edu)

- **Reporting Officials**

In addition to reporting to the Title IX Coordinator or an Assistant Title IX Coordinator, any person may report sexual misconduct or interpersonal violence to any University employee with

managerial authority over other employees, including members of senior staff, deans, department heads, unit supervisors, and other managers (collectively “Reporting Officials”) who must promptly forward such report to the Title IX Coordinator.

All other University employees, except for those identified in the Confidential Resources section below, are encouraged, but are not required to, forward reports of sexual misconduct or interpersonal violence to the Title IX Coordinator.

- **Aurora University Department of Campus Public Safety**  
1408 Southlawn Place, Aurora, IL 60506  
(630) 844-5450 (emergency)  
(630) 844-6140 (non-emergency)  
[cpsafety@aurora.edu](mailto:cpsafety@aurora.edu)
- **The Employee Assistance Program (800) 272-7255** (For employees)

**Reports may be submitted to the Title IX Coordinator, Assistant Coordinators, Reporting Officials, or Campus Public Safety in person, in writing, including by electronic mail and may be submitted by complainants, third parties, witnesses, or bystanders.**

## **2. Anonymous and Electronic Reporting**

Electronic reports can be submitted via the University Sexual Misconduct webpage at <https://aurora.edu/sexual-misconduct>. A report made through the University’s Sexual Misconduct webpage can be submitted anonymously. Upon filing an electronic report, the electronic reporter (if not anonymous) will receive an electronic response within 12 hours.

### **a. Privacy of Reports**

The privacy of all parties involved in complaints or reports of sexual misconduct or interpersonal violence prohibited by this Policy will be respected to the extent permitted under relevant law. Information related to a complaint or report of a violation of this Policy will be shared only with those University employees who need to know to assist in the investigation and/or resolution of the matter pursuant to the University’s investigation and resolution procedures for this Policy. *See* Section IV of this Policy.

All University employees who are involved in the review, investigation or resolution of sexual harassment, sexual misconduct, and interpersonal violence complaints will receive specific training regarding the safeguarding of private information.

### **b. Information Regarding the Rights of the Parties**

Upon receiving a report of an incident of sexual misconduct or interpersonal violence prohibited under this Policy, the University will provide the Complainant and Respondent a written document (separate from this Policy) listing, in plain, concise language, the Complainant’s available rights, options and

resources, as well as a copy of this Policy which contains the University's Sexual Misconduct and Interpersonal Violence investigation and resolution procedures.

### **c. Requests for Confidentiality**

In some cases, an individual may disclose an incident of sexual misconduct or interpersonal violence to a non-confidential source but wish to maintain confidentiality or request that no investigation into a particular incident be pursued or no disciplinary action be taken. To the extent permitted by law, the confidentiality of all parties involved in the resolution of alleged or suspected violations of this Policy will be observed, provided that it does not interfere with the University's ability to conduct an investigation and take any corrective action deemed appropriate by the University. Consistent with the University's obligations under the Clery Act and VAWA, identifying information regarding reporting parties will not be included in any Timely Warnings or other publicly-available records.

The determination of whether a request for confidentiality can be honored is made by the Title IX Coordinator. All Reporting Officials *must* report alleged or suspected violations of this Policy to the Title IX Coordinator and should inform any Complainant requesting confidentiality of their obligation to do so. The Title IX Coordinator must balance such requests for confidentiality along with the obligation to provide a safe and nondiscriminatory environment for all members of the campus community, including the individual who has experienced the alleged misconduct.

When weighing an individual's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider the seriousness of the alleged conduct and the risk to the community's safety; the Complainant's age; whether there have been other harassment grievances against the same individual; whether the alleged incident is isolated or part of a pattern of conduct; and the Complainant's rights for notification under federal and state law. The Title IX Coordinator or designee will also consider other relevant information, including but not limited to:

- The Respondent threatened further sexual misconduct or other violence against the Complainant or others;
- The alleged sexual misconduct or interpersonal violence was committed by multiple accused individuals;
- The alleged sexual misconduct or interpersonal violence was perpetrated with a weapon;
- The alleged sexual misconduct or interpersonal violence was committed against a minor; and/or,
- The report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- Any available information indicating that the Respondent has history of sexual misconduct or interpersonal violence.

Although rare, there are times when the University may not be able to honor an individual's request for confidentiality in order to provide a safe and nondiscriminatory environment. If the Title IX Coordinator determines that it cannot honor the request for confidentiality, or the University cannot abide by the Complainant's requests, it will inform that party prior to initiating any investigation and will, to the extent possible, only share information with those responsible for

handling the University's response. Further, the University will not disclose the identity of either party except as necessary to resolve the complaint or to implement interim protective measures and accommodations or when provided by State or federal law.

If a Complainant's request for confidentiality limits the University's ability to investigate a matter, the University will still take any steps it deems necessary to limit the effects of the alleged or suspected sexual misconduct or interpersonal violence and prevent its recurrence. For example, the University might provide training and education, adjust policies, conduct climate surveys, or provide increased security at a given location.

Complainants also have the option to, or not to, notify and seek assistance from law enforcement authorities. Complainants are also free to explore whether they might be able to obtain a judicial no-contact order, restraining order, or protective order, or similar lawful order issued by a criminal, civil or tribal court or by the University. The Title IX Coordinator is available to assist individuals who have further questions about these issues.

## **J. Confidential Advisors and Resources**

Individuals wishing to obtain confidential assistance without making a report of sexual misconduct or interpersonal violence to the University may do so by speaking with any of the following Confidential Advisors or resources. These resources are available whether or not a Complainant chooses to report an incident to the University or to law enforcement or participate in the University's investigation and resolution procedures or in the legal or criminal process with regard to any such report.

These resources are available to both parties. They can help explain the parties' rights and options under this Policy, assist the parties in obtaining support and navigating the University's reporting, investigation, and resolution process, and provide ongoing support as needed.

Disclosures to these trained Confidential Advisors or resources *will not* trigger the University's investigation into an incident.

### **1. Confidential Advisors**

Aurora University has entered into an agreement with Mutual Ground to provide Confidential Advisor services to Aurora University students seeking to make a confidential report or otherwise access confidential assistance. Representatives of Mutual Ground are trained and available to discuss incidents of sexual misconduct or interpersonal violence in confidence. In addition to providing confidential counseling, Confidential Advisors also provide emergency and ongoing support to individuals who have been affected by sexual misconduct or interpersonal violence, including:

- The provision of information regarding the individual's reporting options and possible outcomes, including without limitation, reporting to the University pursuant to this Policy and notifying local law enforcement;
- The provision of resources and services, including, but not limited to, services available on campus and through community-based resources, such as, sexual assault crisis centers,



medical treatment facilities, counseling services, legal resources, medical forensic services and mental health services;

- The provision of information regarding orders of protection, no contact orders or similar lawful orders issued by the University or a criminal or civil court;
- An explanation of the individual's right to have privileged, confidential communications with the confidential advisor consistent with state and federal law;
- Assistance in contacting campus officials, community-based sexual assault crisis centers and/or local law enforcement upon requested; and/or
- Assistance with securing interim protective measures and accommodations upon request.

Contact information for confidential advisors is as follows:

Mutual Ground  
418 Oak Avenue  
Aurora, IL 60506  
[mutualground.org](http://mutualground.org)  
Sexual Assault 24-Hour Hotline: (630) 897-8383

## **2. On-Campus Confidential Resource Contact Information**

In addition, the following on-campus confidential resources are also available to students who have been affected by sex discrimination, sexual misconduct or interpersonal violence.

- Aurora University Counseling & Psychological Services  
1317 Marseillaise Place)  
(630) 844-5416
- Health Services  
1317 Marseillaise Place  
(630) 844-5434
- University Chaplain  
430 South Evanslawn Avenue  
(630) 844-6866
- TimelyCare at [www.timelycare.com/AU](http://www.timelycare.com/AU) or [www.timelycare.com/GWC](http://www.timelycare.com/GWC)

### 3. Off-Campus Confidential Resources

In addition to the confidential advisors and on-campus confidential resources noted above, the following off-campus agencies also employ individuals who are available to discuss incidents of sexual misconduct or interpersonal violence in confidence. Please note that limitations of confidentiality may exist for individuals under the age of 18.

- **National Sexual Assault Telephone Hotline:** (800) 656-HOPE (4673)
- **State of Illinois Domestic Violence Hotline:** (877) 863-6338
- **Association for the Prevention of Family Violence in Wisconsin:** (262) 723-4653
- **Local 24-hour Crisis Intervention Services (Counseling/Advocacy)**

#### Aurora Campus

Mutual Ground  
418 Oak Ave  
Aurora, IL 60506  
Sexual Assault Hotline (24/7): (630) 897-8383  
General phone number: (630) 897-0080

#### George Williams Campus

Association for the Prevention of Family Violence  
735 N. Wisconsin St. Suite 101  
Elkhorn, WI 53121  
Crisis Hotline: (262) 723-4653

Walworth County Dept. of Health & Human Services  
W4051 County Road NN  
Elkhorn, WI 53121  
Crisis Hotline (24/7): (800) 365-1587  
General phone number: (262) 741-3200

#### Woodstock Campus

McHenry County Crisis Program  
P.O. Box 1990  
Woodstock, IL 60098  
Crisis Hotline (24/7): (800) 892-8900

### K. Reporting to Law Enforcement

In addition to contacting the Title IX Coordinator, an Assistant Title IX Coordinator, or other Reporting Official, a Complainant has the option to contact the appropriate law enforcement authorities regarding the possibility of filing a criminal complaint. The Title IX Coordinator and other University personnel, confidential resources, and off-campus confidential advisors are available to assist students and others in making contact with appropriate law enforcement authorities upon request. All Complainants have the option to pursue a criminal complaint with an

appropriate law enforcement agency, to pursue a complaint under the University's investigative and resolution procedures, or to pursue both processes simultaneously.

The University will investigate and resolve alleged or suspected violations of this Policy where appropriate, whether or not a criminal complaint is pursued by the Complainant. The University reserves the right to proceed with or resolve its own investigation prior to the completion of any criminal investigation or criminal proceeding.

The University may, in some circumstances, defer the fact-finding portion of its investigation for a limited time while law enforcement gathers evidence. In such cases, the Title IX Coordinator shall inform the parties of the need to defer the University's fact-finding, provide regular updates on the status of the investigation, and notify the parties when the University's fact-finding resumes.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are not determinative of whether sexual misconduct or interpersonal violence, for purposes of this Policy, has occurred. In other words, conduct may constitute sexual misconduct or interpersonal violence under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to investigate or prosecute.

**For more information regarding the option to pursue a criminal complaint, contact:**

- The City of Aurora Police Department  
1200 East Indian Trail  
Aurora, IL, 60505  
911 (emergency); (630) 256-5000 (non-emergency)
- City of Williams Bay Police Department  
250 Williams St.  
P.O. Box 580  
Williams Bay, WI 53191  
911 (emergency); (262) 245-2710 (non-emergency)
- City of Woodstock Police Department  
656 Lake Ave.  
Woodstock, IL 60098  
911 (emergency), (815) 338-2131 (non-emergency)
- Kane County State's Attorney Office  
37w777 IL Route 38  
Suite 300, St. Charles, IL 60175  
(630) 232-3500

In addition to having the option of pursuing a criminal complaint, individuals also have the right to request that law enforcement issue emergency protective restraining orders or to pursue such orders through the court process. The University can assist parties who wish to do so. Parties who receive

emergency or permanent protective or restraining orders through a criminal or civil process should notify the Title IX Coordinator so that the University can work with the individual and the subject of the restraining order to manage compliance with the order on campus.

#### **L. Medical Assistance**

The University also strongly encourages all individuals who feel they have been victims of sexual misconduct or interpersonal violence to seek immediate assistance, preferably within the first 12 hours post assault, from a medical provider for emergency services, including treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services. Medical treatment can also be crucial to preserving evidence in the event of a criminal investigation. Seeking medical attention helps preserve the full range of options, including the options of working through the University's investigation and resolution procedures and/or filing criminal complaints. Medical personnel may be covered by federal and/or state privacy laws, such as the Health Insurance Portability and Accountability Act ("HIPAA"). Under applicable law, medical personnel may be required to alert police when it reasonably appears that the individual requesting the treatment has received an injury sustained as a victim of a criminal offense, including sexual violence. However, it is an individual's choice whether to contact the police.

Local emergency rooms have trained healthcare professionals on staff, including Sexual Assault Nurse Examiners, experienced in assessment, evidence collection and treatment of victims of sexual assault. While victims will be referred to local emergency rooms for medical attention, the Health Services Center on the Aurora campus can provide additional information and support to victims on how to seek further medical attention and what to expect at the visit.

#### **Medical Services may be obtained at:**

Presence Mercy Medical Center  
(24/7, ER assistance)  
1325 N. Highland Ave.  
Aurora, IL 60506  
Phone: (630) 859-2222

Centegra Hospital  
1 Doty Rd.  
Woodstock, IL 60098  
Phone: (815) 338-2500

Rush-Copley Medical Center  
(24/7, ER assistance)  
2000 Ogden Ave.  
Aurora, IL 60504  
Phone: (630) 978-6200

Mercy Walworth Hospital  
N2950 State Road 67  
Lake Geneva, WI 53147  
Phone: (262) 245-0535

For further support and advocacy, individuals may contact Mutual Ground ((630) 897-8383), the local sexual assault/domestic violence crisis center in Aurora. Professionals from Mutual Ground provide free, 24-hour crisis intervention which includes support for victims at the hospital emergency room, information about medical exams and evidence collection, as well as individual counseling and support groups.

## **M. Preserving Evidence**

Even if an individual has not been physically hurt, a timely medical examination is recommended so that forensic evidence can be collected and preserved. An individual may choose to allow the collection of evidence by medical personnel even if he or she chooses not to make a report to the police. In order to best preserve forensic evidence, it is suggested that an individual not shower, bathe, douche, smoke, or change clothes or bedding before seeking medical attention, and that medical attention be sought as soon as possible. If the individual decides to change clothes, he she can bring them unwashed to the hospital or medical facility in a paper bag.

Emergency medical or forensic examinations (i.e., evidence collection) for sexual assault survivors are provided free of charge to patients. **Individuals can obtain a free emergency medical or forensic examination at:**

Presence Mercy Medical Center  
(24/7, ER assistance)  
1325 N. Highland Ave.  
Aurora, IL 60506  
Phone: (630) 859-2222

Aurora Lakeland Medical Center  
W3985 County Road NN  
Elkhorn, WI 53121  
Emergency Department Phone: (262) 741-2120

Individuals who have experienced sexual misconduct or interpersonal violence are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs, or other copies of documents.

## **N. Amnesty/Good Samaritan Policy**

*See* Section IV of this Policy for information regarding the University's Amnesty/Good Samaritan Policy.

## **O. Prevention, Education, and Training**

Aurora University is committed to the prevention of and education about sexual misconduct and interpersonal violence. In order to accomplish this, the University provides training through a variety of mechanisms and multiple constituencies.

### **1. Officials with Responsibility for Investigation or Adjudication of Sexual Misconduct or Interpersonal Violence.**

The University will provide officials responsible for the investigation or adjudication of sexual misconduct or interpersonal violence under this Policy with at least 8 hours of annual training on issues related to sex discrimination, sexual misconduct and interpersonal violence, including:

- The University's Policy;

- The relevant Federal and State law concerning sexual violence, domestic violence, dating violence, and stalking;
- The roles of the University, medical providers, law enforcement, and community agencies in ensuring a coordinated response to a reported incident of sexual violence;
- The effects of trauma on a survivor;
- The types of conduct that constitute sexual violence, domestic violence, dating violence, and stalking, including same-sex violence;
- Consent and the role drugs and alcohol use can have on the ability to consent;
- Cultural sensitivity and compassionate communication skills for dealing with persons reporting or accused of sex discrimination, sexual misconduct and interpersonal violence;
- Trauma-informed response training;
- Providing services to or assisting in locating services for both reporting and responding parties; and
- How to conduct the investigation and resolution procedures contained in this Policy in a way that protects the safety of the parties and promotes institutional accountability.

## **2. Primary Prevention and Awareness Programs**

The University will provide primary prevention and awareness programs for all incoming students and new employees that include the following:

- A statement that the University prohibits the offenses of sexual assault, domestic violence, dating violence and stalking, and a description of the University's policies that prohibit this conduct;
- The definition of consent and inability to consent, in reference to sexual activity, as defined in the applicable jurisdiction;
- The definition of sexual assault, domestic violence, dating violence, and stalking (or similar offenses) in this Policy and in the applicable jurisdiction;
- The definition of retaliation as it relates to sexual violence;
- A description of safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of sexual assault, domestic violence, dating violence, or stalking against a person other than such individual;
- Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
- The procedures that a Complainant should follow if sexual assault, domestic violence, dating violence, or stalking has occurred, as described in this Policy;
- The Complainant options for reporting such incidents to the University, to University law enforcement, and to local law enforcement;
- The option for either a Complainant or a Respondent to discuss incidents or accusations of sexual misconduct or interpersonal violence with a Confidential Advisor or other confidential resources;
- Available services for Complainants and Respondents;
- The possible sanctions and protective measures that the University may impose following a final determination of a violation of University Policy regarding sexual assault, domestic violence, dating violence, or stalking;

- The procedures that the University will use to investigate and resolve allegations of sexual assault, domestic violence, dating violence, or stalking, as described in this Policy, including the standard of proof that is used;
- Information about how the University will protect the confidentiality of the parties, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the parties, to the extent permissible by law, and how the University will maintain as confidential any accommodations or protective measures provided to the parties, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures;
- A statement that the University will provide written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for student and employee reporting and responding parties both within the University and in the community;
- A statement that the University will provide written notification to reporting and responding parties about options for, and available assistance in, changing academic, living, transportation, and working situations or protective measures, if so requested by the party and if such accommodations are reasonably available, regardless of whether the Complainant chooses to report the crime to campus security or local law enforcement; and
- A statement that, when a Complainant reports to the University that the Complainant has been a victim of sexual assault, domestic violence, dating violence, or stalking, whether the offense occurred on or off campus, the University will provide a written explanation to both parties of their rights and options.

### **3. Ongoing prevention and awareness campaigns**

The University will also provide ongoing prevention and awareness campaigns for students and employees that include the information covered in the primary prevention and awareness programs, including electronic and hard copies of this Policy and procedures.

## **III. OTHER DISCRIMINATION**

Aurora University prohibits: (i) discrimination or harassment based on race, color, national origin, ancestry, age, religion, disability, veteran status, marital status, familial status, or genetic information; (ii) discrimination based on sex other than sexual misconduct, including discrimination or harassment based on gender identity, sexual orientation, or pregnancy; and (iii) discrimination based on any other protected status.<sup>2</sup> (also referred to as “other discrimination” throughout this Policy).

### **A. Responsible University Personnel and Other Resources**

The University has designated the Dean of Students & Title IX Coordinator as the University official responsible for implementing this Policy’s prohibitions against other discrimination. This includes the

<sup>2</sup> Throughout this Policy “other discrimination” refers to: (i) discrimination or harassment based on race, color, national origin, ancestry, age, religion, disability, veteran status, marital status, familial status, or genetic information; (ii) discrimination based on sex other than sexual misconduct, including discrimination or harassment based on gender identity, sexual orientation, or pregnancy; and (iii) discrimination based on any other protected status.

coordination of training, education, communications, and administration of grievance procedures. The Dean of Students is also responsible for maintaining documentation of all reports of incidents of other discrimination addressed by this Policy, and for establishing a protocol for recordkeeping of such incidents. The Dean of Students is available to meet with or talk to students, faculty, or staff regarding questions or issues relating to this Policy and other discrimination.

The name and contact information for the Dean of Student & Title IX Coordinator is:

Allison Brady Dean of Students & Title IX Coordinator  
Office location: Founders House room 101  
Phone: (630) 844-4578  
[Email: abrady@aurora.edu](mailto:abrady@aurora.edu)

Individuals may also contact the U.S. Department of Education's Office for Civil Rights or the Equal Employment Opportunity Commission for additional information.

U.S. Department of Education (Chicago Office)  
John C. Kluczynski Federal Building  
230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604  
Phone: (312) 730-1560  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

U.S. Equal Employment Opportunity Commission  
John C. Kluczynski Federal Building (Chicago Office)  
230 S. Dearborn Street  
Chicago, IL 60604  
Telephone: (312) 872-9744

## **B. Prohibited Conduct**

This Policy prohibits other discrimination or harassment based on an individual's protected "protected class" or "protected characteristics," including the following:

### **1. Different Treatment Discrimination**

Different treatment occurs when an individual is, or individuals are excluded from participation in, denied benefits, or otherwise subjected to discrimination based on the individual's or individuals' protected class or protected characteristics.

### **2. Hostile Environment Harassment**

Harassment occurs when harassing conduct (e.g., physical, verbal, graphic, or written) based on an individual's protected class or protected characteristics is sufficiently severe pervasive, or persistent so as to interfere or limit the ability of the individual to participate in or benefit from the services, activities, or privileges provided by the University. The University will determine whether a hostile environment exists based on the totality of the circumstances and a reasonable personal standard.



Examples of conduct that may constitute hostile environment harassment based on an individual's protected class or characteristics include but are not limited to: the use of slurs, insults, or derogatory comments, the display of offensive symbols, verbal abuse, or negative stereotyping.

### **C. Reporting Options and Available Resources**

There are various reporting options and resources available to the University community for individuals who wish to make a complaint or report of other discrimination under this Policy. The University encourages its community members to report such conduct to one or more of the individuals or agencies identified below.

If you are in immediate danger, **call 911** for local authorities. *See* "Reporting to Law Enforcement" below for more information on reporting to law enforcement.

#### **1. Reporting to the University**

The University strongly encourages individuals, including third-party bystanders, to report incidents of other discrimination prohibited by this Policy.

The University will promptly and equitably investigate all suspected or alleged violations of this Policy. Although there is no specific time limit for reporting a suspected violation of this Policy, an individual who may have been subjected to conduct that violates this Policy is encouraged to contact an appropriate official as soon as possible after the alleged or suspected violation to discuss the available options for proceeding. Prompt reporting is strongly encouraged as it becomes more difficult to compile information relating to a grievance as the time increases between the alleged or suspected incident(s) and the report of the incident(s).

Incidents of discrimination prohibited by this Policy may be reported to:

Allison Brady, Dean of Students & Title IX Coordinator  
Office location: Founders House, room 101  
Phone: (630) 844-4578  
Email: [abrady@aurora.edu](mailto:abrady@aurora.edu)

- **Reporting Officials**

In addition to reporting to the Dean of Students & Title IX Coordinator, any person may report discrimination prohibited by this Policy to any University employee with managerial authority over other employees, including senior staff members, deans, department heads, unit supervisors, and other managers (collectively "Reporting Officials") who must promptly forward such report to the Dean of Students.

All other University employees, except for those identified in the Confidential Resources section below, are encouraged, but are not required to, forward reports of other discrimination under this Policy to the Dean of Students.

- **Aurora University Department of Campus Public Safety**

1408 Southlawn Place  
Aurora, IL 60506  
(630) 844-5450 (emergency)  
(630) 844-6140 (non-emergency)  
[cpsafety@aurora.edu](mailto:cpsafety@aurora.edu)

- **The Employee Assistance Program (800-272-7255) (For employees)**

**Reports may be submitted to the Dean of Students, Reporting Officials, or to Campus Public Safety in person, in writing, including by electronic mail and may be submitted by complainants, third-parties, witnesses, or bystanders.**

## **2. Privacy of Reports**

The privacy of all parties involved in complaints or reports of other discrimination prohibited by this Policy will be respected to the extent permitted under relevant law. Information related to a complaint or report of a violation of this Policy will be shared only with those University employees who need to know to assist in the investigation and/or resolution of the matter pursuant to the University's investigation and resolution procedures for the Policy. *See* Section IV of this Policy.

## **3. Information Regarding the Rights of the Parties**

Upon receiving a report of an incident of discrimination prohibited by this Policy, the University will provide the Complainant a written document (separate from this Policy) listing, in plain, concise language, the Complainant's available rights, options and resources. The University will also provide the alleged Respondent a written document (separate from this Policy) listing, in plain and concise language, the Respondent's available rights, options and resources. The University will also provide the parties a copy of this Policy, which includes the University's investigation and resolution procedures. *See* Section IV of this Policy.

## **4. Requests for Confidentiality**

In some cases, an individual may request that no investigation into a particular incident be pursued or no disciplinary action be taken. To the extent permitted by law, the confidentiality of all parties involved in the resolution of alleged or suspected violations of this Policy will be observed, provided that it does not interfere with the University's ability to conduct an investigation and take any corrective action deemed appropriate by the University.

The determination of whether a request for confidentiality regarding a report of discrimination prohibited by this Policy can be honored is made by the Dean of Students. All Reporting Officials *must* report alleged or suspected violations of this Policy to the Dean of Students and should inform

any Complainant requesting confidentiality of their obligation to do so. The Dean of Students will balance such requests for confidentiality along with the obligation to provide a safe and nondiscriminatory environment for all members of the campus community, including the individual who has experienced the alleged discrimination. When weighing an individual's request for confidentiality or that no investigation or discipline be pursued, the Dean of Students will consider relevant factors, including but not limited to: the seriousness of the alleged conduct and the risk to the community's safety; the Complainant's age; whether there have been other harassment grievances against the same individual; or whether the alleged incident is isolated or part of a pattern of conduct.

Although rare, there are times when the University may not be able to honor an individual's request for confidentiality in order to provide a safe, nondiscriminatory environment. If the Dean of Students determines the request for confidentiality cannot be honored, or the University cannot abide by the Complainant's requests, it will inform that party prior to initiating any investigation and will, to the extent possible, only share information with those responsible for handling the University's response. Further, the University will not disclose the identity of either party except as necessary to resolve the complaint or to implement interim protective measures and accommodations or when provided by State or federal law.

If a Complainant's request for confidentiality limits the University's ability to investigate a matter, the University will still take any steps it deems necessary to limit the effects of discrimination and prevent its recurrence. For example, the University might provide training and education, adjust policies, conduct climate surveys, or provide increased security at a given location.

Complainants also have the option to, or not to, notify and seek assistance from law enforcement authorities. Complainants are also free to explore whether they might be able to obtain a judicial no-contact order, restraining order, or protective order, or similar lawful order issued by a criminal, civil or tribal court. The Dean of Students is available to assist individuals with supportive measures and respond to questions relating to incidents involving other discrimination.

#### **D. Amnesty/Good Samaritan Policy**

*See* Section IV of this Policy for information regarding the University's Amnesty/Good Samaritan Policy.

#### **E. Prevention, Education, and Training**

Aurora University is committed to the prevention of and education about other discrimination. In order to accomplish this, the University provides training through a variety of mechanisms and multiple constituencies.

Each person involved in the Assessment, Informal Resolution, Formal Resolution, Sanctioning, and Appeal process of matters related to reports of other discrimination will receive annual training regarding issues related to other discrimination, including applicable Federal and State law. All University employees who are involved in the review or investigation of complaints also receive specific training regarding the safeguarding of private information.

#### **IV. INVESTIGATION, RESOLUTION, AND ADDITIONAL INFORMATION**

Aurora University is committed to the prompt and equitable resolution of all alleged or suspected violations of this Policy about which the University knows or reasonably should know, regardless of whether a report alleging a violation of this Policy has been filed.

In resolving a particular matter, the University may use some or all of the following processes: Initial Assessment and Interim Measures, Informal Resolution, Formal Resolution (a formal investigatory process leading to a finding), Sanctioning, and Appeal. Regardless of the specific processes employed, the University will complete its investigation and resolution procedures in a fair, impartial and thorough manner.

The University's ability to investigate a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the Complainant is willing to file a report or consent to an investigation, whether the Complainant requests confidentiality, the location where the alleged or suspected conduct occurred, and the University's access to information relevant to the alleged or suspected violation of this Policy. The University is nonetheless committed to addressing all alleged and suspected violations of this Policy to the fullest extent possible under the circumstances. In instances where the Complainant is unwilling or unable to file a report and participate in an investigation and resolution process, the University may elect to proceed and to seek resolution of the matter in accordance with the procedures described below or other process that resolves the complaint in a manner consistent with University policies, applicable law, and other relevant regulatory guidance. Should the institution require more time to complete the fair, impartial and thorough investigation as a result of extenuating circumstances, both parties will be provided written notice of the circumstances contributing to the need of additional time, as well as an estimated date of completion of the investigation and determination process.

##### **A. Assessment**

For every report of an alleged or suspected violation of this Policy, the Dean of Students & Title IX Coordinator will review the circumstances of the reported conduct, including but not limited to the following:

- Whether the University has jurisdiction over the parties involved;
- Which University policy is applicable to the parties and the conduct being reported; and
- Whether the actions are within the University's control necessary to eliminate, prevent, and address the reported conduct.

If the Respondent is not a member of the University community or is no longer affiliated with the University at the time of the report or at the time the Complaint Resolution Process is initiated (including if the Respondent has graduated or left the University), the University may be limited in its ability to respond to the report.

The first step of the Initial Assessment will typically be a meeting between the Complainant and the Dean of Students & Title IX Coordinator. At this time, a written complaint or statement may be submitted by the Complainant, but a written complaint or statement is not necessary;

information provided by the Complainant in any form will be considered in resolving allegations reported to the University. This meeting will allow the Dean of Students & Title IX Coordinator to:

- Assess the nature and circumstances of the allegation;
- Discuss the types of conduct prohibited by the Policy and review the Complainant's complaint as it pertains to the prohibited conduct;
- Address any immediate concerns about the physical safety and emotional well-being of the parties;
- Notify the Complainant of the option to notify law enforcement and be assisted in doing so, as well as the option not to notify law enforcement;
- Provide the Complainant with information about the range of available resources and services, and assist the Complainant in accessing these resources;
- Describe the range of Supportive Measures for security and support, including orders of no contact, changes in academic, living, dining, transportation, and working situations, course adjustments and other forms of academic support. In addition, the University may impose an emergency removal or other restrictions on the Respondent in cases where the University believes there is risk of harm to others. In exercising its discretion, the University will make every effort to minimize any impact on the student's education. Any Supportive Measures will be provided in a manner that minimizes the burden on both parties to the extent possible;
- Discuss fully the options, rights, and responsibilities of the parties (including the right to be accompanied during any meeting related to the matter by an advisor of their choice whose participation will be limited to consulting privately with the party they accompany), the Informal Resolution process, the Formal Resolution process, and the need to preserve any relevant evidence or documentation in the case; and,
- If the matter involves sexual misconduct, assess whether there is a need for a timely warning or emergency notification under Federal law.

As soon as practicable after the initial meeting with the Complainant, the Respondent will also be notified that a report or complaint alleging a violation of the University Policy has been made unless the University determines that notifying the Respondent is not necessary or appropriate under the circumstances. When notified of the report or complaint, the Respondent will also receive parallel discussion of the options, rights, and responsibilities of the parties (including the right to be accompanied during any meeting related to the matter by an advisor of their choice whose participation will be limited to consulting privately with the party accompanied by the advisor), the Informal Resolution process, the Formal Resolution process, the prohibition against retaliation, the need to preserve any relevant evidence or documentation in the case, and the availability of Supportive Measures and remedies. The Respondent will also be provided with a written explanation of these rights. The Respondent may elect to accept responsibility for all or part of the conduct alleged by the Complainant at this stage or at any later stage throughout the process. In that case, the Dean of Students & Title IX Coordinator may initiate an investigation for the purposes of providing additional information that may be relevant to the University official charged with determining appropriate sanctions. If the Respondent does not accept responsibility, the investigation will proceed as described below. In addition, if the Respondent withdraws a prior acceptance of responsibility, the process will continue as described below.

If the Dean of Students & Title IX Coordinator determines that the conduct reported falls within the scope of this Policy, the Dean of Students & Title IX Coordinator will proceed to implement any appropriate and reasonable available Supportive Measures to protect the safety of the parties and the campus community, including Supportive Measures that address their safety and well-being and that are individualized and appropriate for the case at hand. Such measures may be requested by or provided by the parties and may include, but are not limited to, counseling services, changes to academic, living, dining, transportation, and campus work situations; academic assistance, accommodations or adjustments; obtaining and enforcing campus orders of “no contact;” and/or the provision of escorts. Any such Supportive Measures will be taken in a manner that minimizes the burden on the parties to the extent possible. Supportive Measures will be kept confidential to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures.

Failure to comply with the terms of no contact directives may constitute a serious violation of the Student Code of Conduct and the Employee Standards of Conduct.

## **B. Informal Resolution Process**

Where appropriate, the Informal Resolution process can be used to resolve alleged violations of this Policy without implementing a Formal Resolution process and its subsequent determination of a University Policy violation. The Informal Resolution process may include the range of Supportive Measures described above, as well as targeted and/or broad-based training and educational programming for relevant individuals and groups. An Informal Resolution process may also include a remedies-based process [mediation], which allows the parties to come to a mutual agreement regarding the resolution of the grievance. This process is facilitated by the Dean of Students & Title IX Coordinator. For example, the parties may agree that the permanent application of Supportive Measures (e.g., no contact agreement) may be sufficient to resolve the grievance. This option is available if: (i) the University determines that such a process would be appropriate and (ii) after receiving a full disclosure of the allegations and their options for formal resolution, all parties voluntarily provide written consent to participate in the Informal Resolution process.

The parties to any Informal Resolution process will not be required to deal directly with one another without the University’s involvement. Instead, the Dean of Students & Title IX Coordinator may arrange for or facilitate a remedies-based process or other form of mediation between the involved parties and coordinate other remedies-based measures. Once an Informal Resolution process is complete, the parties will be notified (simultaneously and consistent with FERPA or other applicable law) of the resolution. The Informal Resolution process does not conclude with a finding; responding parties are not charged with a policy violation and are not found to be “responsible” or “not responsible” of a policy violation.

When the University determines it is appropriate to do so, it may terminate the Informal Resolution process at any time prior to the parties agreeing to a resolution. In addition, while the results of the Informal Resolution process cannot be appealed, any party may withdraw from the Informal Resolution process at any time prior to agreeing to a resolution. Once the University or party

terminates the Informal Resolution process, the Formal Resolution process (described below) will resume or commence.

### **C. Formal Resolution**

A report of alleged conduct in violation of this Policy can also be resolved through a Formal Resolution process. The Formal Resolution process will be used in instances in which the Informal Resolution was not successful; the option to pursue resolution via an Informal Resolution process was declined by the parties; or at the University determined the Informal Resolution process was inappropriate based on the circumstances involved in the case. The Formal Resolution process involves the following steps:

#### **1. Investigation**

The Dean of Students & Title IX Coordinator will assign a trained investigator. It is common University practice, but not required, for the assigned investigator to select another trained investigator to participate in the investigation process in a secondary role. The investigators shall not have a conflict of interest or bias for or against any parties involved in the potential policy violation. The investigator(s) will undertake an investigation for the purposes of adjudicating whether a Respondent is responsible for the alleged violation(s) of the Policy.

The Dean of Students & Title IX Coordinator will provide written notice to the parties that a grievance has been filed. The written notice provided to the Respondent will include the following information: (1) the identity of the parties involved, if known; (2) the specific section of the University's policy allegedly violated; (3) the precise conduct allegedly constituting the alleged violation; (4) the dates and location of the alleged incident, to the extent known; and (5) the names of the assigned University investigator(s). The Dean of Students & Title IX Coordinator will notify the parties of any secondary investigator, if and when that assignment is subsequently made. If either the party has any concerns about a potential conflict of interest on the part of the assigned University investigator or secondary investigator, the party should notify the Dean of Students & Title IX Coordinator in writing within three (3) business days of the date of the notice of the Formal Complaint or notice of any secondary investigatory. If additional allegations are raised or the substance of the allegations changes, the parties will receive additional notice.

The nature and extent of the investigation will vary depending upon the circumstances. As part of the investigation, the investigator(s) will review any information gathered during the Initial Assessment and will seek to interview the parties. The University will also seek to identify and interview any potential witnesses, including witnesses with relevant information identified by the parties, and gather and review physical, documentary, and/or other relevant evidence. Additional information regarding the investigation is as follows:

- The University investigator(s) will conduct individual interviews with the parties and any potential witnesses with relevant information in an effort to gain as much information as possible. Interviews may take place in person, by phone, or through electronic means;
- Timely notice of an interview date and time will be provided to each party and witness; timely notice will also be provided to the parties of meetings at which the party may be present;

- The parties will be provided with timely and equal access to information;
- The investigator(s) will make every effort to be sensitive to the needs of the interviewee while remaining committed to gaining a thorough understanding of the incident and any precipitating events;
- The parties have the right to be accompanied to any interview or other meeting related to this process by the advisor/support person of their choice. The support person may attend but shall not participate in the interview or related meeting;
- The use of any recording devices (photo, video or audio) by parties, witnesses, or advisors/support persons is prohibited;
- The investigator(s) will determine whether character witnesses will be interviewed based on the circumstances of the case, and, when conducted, character witnesses identified by each party will be interviewed. The investigator(s) will determine whether all character witnesses identified by the parties will be interviewed but will ensure that any such interviews are conducted in an equitable manner;
- In addition to conducting interviews, the University investigator will seek to collect and review any relevant evidence pertaining to the grievance, such as text/email/voicemail messages, social media messages and postings, written communications, law enforcement records, hospital reports, and other relevant evidence; and
- The investigator(s) will notify the parties of the anticipated date of completion of the investigation and request that the parties provide any additional information prior to identified date.

## **2. Review of the Preliminary Investigation Report**

Upon completion of the investigation, the investigator(s) will produce a Preliminary Investigation Report that summarizes and analyze the allegations, the relevant facts, the Investigator's credibility determinations and rationale for those determinations, and all relevant inculpatory and exculpatory evidence. For any investigation under this Policy that was dismissed or closed after initiation under the University's Title IX Sexual Harassment Policy, the Preliminary Investigation Report may rely on any facts, documents, statements, or other information obtained during the process under the Title IX Sexual Harassment Policy. For Formal Complaints involving sexual misconduct or interpersonal violence, the Preliminary Investigation Report will be provided to the Title IX Coordinator. All Preliminary Investigation Reports will be shared with the parties (to the extent permitted by FERPA or other applicable law). The parties will have an opportunity to review the Preliminary Investigation Report and provide in writing to the Dean of Students & Title IX Coordinator, comments on the Preliminary Investigation Report, including identifying any factual inaccuracies or any additional relevant information (not already identified by the investigator) within three (3) business days of the date the Preliminary Report is provided to the parties. The investigator(s) will address any identified factual inaccuracies or additional identified relevant information as appropriate prior to determining an outcome of the investigation.

## **3. Findings and Notice of Outcome**

Based upon all information gathered during the investigation, including any facts, documents, statements, or other information obtained during any investigation the investigator(s) will prepare a Final Investigation Report that includes any additional information gathered by the investigator(s), and any appropriate revisions to the Preliminary Investigation Report, including any revisions or supplements to the investigator's credibility assessments, and the investigator's finding(s) about



whether the University's Policy has been violated (i.e., a finding(s) as to whether the Respondent is responsible or not responsible for any policy violation(s) the rationale for these determinations and finding(s)), sanction(s) (to the greatest extent possible, and consistent with FERPA or other applicable law), any other corrective action(s), the rationale for such, and information regarding appeal rights and timelines. The Sanction process is described below. If the complaint presents more than a single allegation of misconduct, a finding will be made separately as to each allegation. The Final Investigative Report will be available for review to the parties simultaneously.

Standard of Proof: The standard used to determine whether the Policy has been violated is the "preponderance of the evidence" standard. In other words, in order to find that the Respondent is responsible for a Policy violation in the matter, the investigator(s) must conclude that based on the information obtained during the investigation it is *more likely than not* that the Respondent violated this Policy.

#### **D. Sanctioning and Corrective Actions**

If the Formal Resolution process concludes with a finding based on a preponderance of the evidence that the Respondent is responsible for a violation of the Policy. The range of disciplinary sanctions, as appropriate for faculty, staff, and employees, that may be imposed along with other corrective actions for a finding of a Policy violation are as follows:

- Expulsion/Termination of Employment
- Suspension
- Loss of On-Campus Housing
- Loss of Extracurricular Privileges
- Residence Hall Reassignment
- No Contact Order
- University Referral
- Parental Notification
- Restitution Fines
- Restitution Service
- Educational Activity
- Restriction of Privileges or No-Trespass Directive
- Suspension of Group Recognition
- Revocation of Group Recognition
- Registration Hold
- Disciplinary Probation
- Disciplinary Admonition

Sanctions imposed will be proportionate with the violation.

Additional corrective measures and remedies for the Complainant may include, but are not limited to, support services and accommodations such as escorts, counseling and medical services, academic or residential accommodations and support. Corrective measures and remedies at the level of the University may include but are not limited to, providing and/or requiring appropriate forms of counseling and training, developing educational materials and programming,

implementation of revised policies and procedures, undertaking climate surveys and other mechanisms to identify and address patterns of violations.

In no event will a party in matters involving an alleged violation of this Policy be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome. If the University is unable to take disciplinary or other corrective action in response to a violation of this Policy, the University will nonetheless pursue other appropriate steps if available to limit the effects of the conduct at issue and prevent its recurrence.

## **E. Appeals**

Once written notification of the resolution has been provided, the parties have the right to submit an appeal of the finding and/or of the sanctions or corrective actions imposed.

1. **Grounds for Appeal:** Appeals of a finding or sanction may be submitted solely upon one or more of the following three grounds:
  - a. Allegations that the investigator(s) deviated from the investigation and resolution process outlined in the Policy in a way that substantially altered the outcome of the case;
  - b. Substantive new evidence or information that was not available or known to the appellant/party during the investigation process and that is sufficient to alter a decision; or
  - c. The sanction is disproportionate to the violation.

Each party shall have the same rights with respect to appealing a finding and/or sanction or corrective action imposed under this Policy. Appeals must be submitted in writing to the Senior Vice President for Student Success within three (3) business days after the date of the Final Investigative Report. Failure to appeal within the allotted time will render the original decision and any sanction final.

2. **Appeal Process:** The appeal process has two steps. First, within five (5) business days of receiving an appeal of either finding or sanction, the appeals officer will determine whether the appeal satisfies the grounds for appeals and will notify the parties simultaneously in writing of the appeal decision. If the Senior Vice President for Student Success determines that the grounds for appeal are not satisfied, the appeal may be denied without further consideration.

If the Senior Vice President for Student Success determines that the appeal request satisfies the grounds for appeal, notice of the appeal will be provided to the other party. The party that did not initiate the appeal will then have three (3) business days after the date of the notice of the appeal to submit a written response (but any such response must be limited to the issues raised by the party making the appeal and cannot constitute a counter-appeal). If both parties have filed appeals, they shall both be permitted to file written responses to the other's appeal document within the same three (3) business day period of time. Any such responses must be submitted to the Senior Vice President for Student Success.

Any such appeal(s) will then be reviewed by the Senior Vice President for Student Success. The Senior Vice President for Student Success will deliver the written decision to the

parties within 45 days of receiving the appeal unless there are extenuating circumstances that require an extension. The Senior Vice President for Student Success may: (1) uphold the original decision; (2) remand the finding and/or sanction for further investigation or reconsideration; or (3) modify, augment, or eliminate the sanction. Within seven (7) business days of the Senior Vice President for Student Success' review and determination of the outcome of the appeal, the Senior Vice President for Student Success will notify the parties simultaneously in writing of the outcome of the appeal and the rationale for the decision.

*All sanctions will be in effect during any appeal.* A request may be made to the Senior Vice President for Student Success to delay implementation of a sanction until the appeal is decided, but parties should presume unless otherwise informed that any sanction(s) will go into effect immediately. Graduation, study abroad, internships/externships, etc. do not in and of themselves constitute exigent circumstances, and students may be barred from participating in those activities during an appeal.

The appeals officer shall not have participated previously in the complaint resolution procedure.

#### **F. Advisors or Support Persons**

The parties have the right to have an advisor/support person of their choice accompany them at all stages of the resolution process, including both informal and formal procedures relating to an alleged or suspected violation of this Policy.

- An advisor/support person is not allowed to advocate for a party like an attorney would advocate in court. In other words, the advisor/support person does not serve as an advocate or representative of a party and may not be actively involved in any of the corresponding meetings and/or interviews. The advisor/support person should not directly address the investigator(s) about the matter during the meeting or interview;
- A party may use a different advisor/support person at various stages in the process;
- An advisor/support person must respect the privacy of all parties throughout the investigation and resolution process;
- An advisor/support person may not provide support for more than one Complainant or Respondent during a case that involves multiple parties. Any requests for an exception to this should be directed to the Dean of Students & Title IX Coordinator;
- Any party deciding to use as an advisor/support person an individual who works as an attorney or has a J.D. degree must inform the Dean of Students & Title IX Coordinator a minimum of 24 hours prior to the meeting or other proceedings in question;
- As needed to protect the integrity of the investigation and resolution process, the University reserves the right to excuse from any meeting or other proceedings an advisor/support person who is a witness with information about facts material to the investigation;
- The University also reserves the right to excuse from any meeting or other proceedings any advisor/support person who is disruptive or who does not adhere to the limitations outlined in this form; and
- The University prohibits retaliation against any individuals filing a report of alleged conduct violating this Policy. An advisor/support person is protected by and subject to this retaliation prohibition. An advisor/support person may not retaliate against any person

participating in this process. If an advisor/support person experiences retaliation as a result of participation in an investigative, disciplinary, or appeal process under this Policy, the advisor/support person should contact the Dean of Students & Title IX Coordinator.

#### **G. Conflict of Interest**

The Dean of Students & Title IX Coordinator, informal resolution officer, investigator(s), and appeals officer will be free of any material conflicts of interest or material bias. Any party who believes one or more of these University officials has a material conflict of interest or material bias must raise the concern promptly so that the University may evaluate the concern and find a substitute, if appropriate. The parties will be notified of the identities of the informal resolution officer, investigator(s), and appeals officer for their proceeding before those individual(s) initiate contact with the parties. 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 “Appeal” or otherwise.

If a party believes that an informal resolution officer, investigator(s), or the appeals officer has/have a material conflict of interest or material bias, the party should submit a request to replace the informal resolution officer, investigator(s), or the appeals officer to the Dean of Students & Title IX Coordinator within three (3) business days of the date of the notice to the party of the assignment of informal resolution officer, investigator(s), or appeals officer. If a party believes that the Dean of Students & Title IX Coordinator has a conflict of interest, the party should submit a recusal request to the Senior Vice President for Student Success within three (3) business days of the date of the notice to the party of the appeal officer assigned to the appeal. In cases where a party subsequently has concerns of a potential material conflict of interest or material bias of the informal resolution officer, investigator(s), or appeals officer, the party must immediately contact the Dean of Students & Title IX Coordinator. In cases where a party has concerns of a potential material conflict of interest or material bias of the Dean of Students & Title IX Coordinator, the party must immediately contact the Senior Vice President for Student Success. 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 “Appeal” or otherwise.

#### **H. Records Maintenance**

The University will maintain documentation and records regarding alleged violations of this Policy and their resolution in a manner that protects the confidentiality of the parties involved, complies with the Family Educational Rights and Privacy Act (FERPA), and to the extent possible excludes personally identifiable information, including the identity of persons who are alleged victims of sexual misconduct, interpersonal violence, and stalking. If a student has been found responsible for violating this Policy, this finding remains a part of that student's conduct record. If an employee or faculty member has been found responsible for violating this Policy, this finding remains a part of the personnel record of the employee or faculty member.

#### **I. Special Provisions**

- The University as Complainant: As necessary, the University reserves the right to initiate a student, employee, or faculty conduct complaint, to serve as Complainant, and to initiate conduct proceedings without a formal grievance by an individual Complainant.
- Fabricated Allegations: The University will not tolerate fabricated allegations. Any allegations suspected to be fabricated for the purpose of harassing another student or employee or disrupting the University's operations constitute a separate and serious violation of University policy and may also violate civil and criminal laws. Any student or employee who knowingly corroborates a fabricated allegation is also in violation of this Policy.
- Parental Notification: Parents/guardians of the involved parties may be notified of reported violations of this Policy in accordance with the University's Parental Notification Policy.

#### **J. Prohibition Against Retaliation**

It is a violation of this Policy to retaliate in any way against an individual or individuals because they have, in good faith, opposed any practices forbidden under this Policy, made a complaint alleging a violation of this Policy, reported or disclosed an alleged violation of this Policy, are accused of a violation of this Policy or participated in the investigation or resolution of a complaint alleging a violation of this Policy. Retaliation may take many forms, and may include intimidating, threatening, coercing, or taking any action against an individual that adversely affects the individual's opportunity to benefit from the University's programs or activities because of the individual's complaint or participation.

The University will take immediate and responsive action upon receiving any report of retaliation or intimidation and may pursue disciplinary action as appropriate. Individuals who engage in acts of retaliation or intimidation, as defined in this Policy, are subject to disciplinary action that may include, but is not limited to, the sanctions listed in the investigation and resolution procedures under this Policy, up to and including exclusion, expulsion, or dismissal from the University, and termination of employment, including revocation of tenure.

#### **K. Amnesty/Good Samaritan Policy**

The welfare of students and employees in our community is of paramount importance, and the University encourages students and employees to offer help and assistance to others in need. The University recognizes that individuals sometimes might be hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to make a report or to help take a victim of sexual misconduct or interpersonal violence to Campus Public Safety because of the potential consequences for their own conduct). To encourage reporting, the University offers amnesty or limited immunity for students or employees who help others in need. A student or employee who makes a good faith report of sexual misconduct or interpersonal violence that was directed at them or another person will not be subject to disciplinary action by the University for any violation of the Student Handbook (e.g., underage drinking), the Employee Handbook, or Faculty Handbook, that is related to and revealed in the course of the sexual misconduct or interpersonal violence report, other discrimination report, or investigation, unless the University determines that the violation was serious and/or places the health or safety of any other person at risk. The University may, however,

pursue educational remedies regarding alcohol or other drugs with regard to an individual who makes such a good faith report.

**L. Outside Appointments, Dual Appointments, Delegations, and Coordination**

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

The University also retains discretion to appoint two or more persons to jointly fulfill the role of informal resolution officer, investigator, and/or appeals officer.

The functions assigned to a given University official under this Policy, including but not limited to the functions assigned to the Dean of Students & Title IX Coordinator, investigator, informal resolution officer, and appeals officer, may, in the University's discretion, be delegated by such University official to any suitably qualified individual and such delegation may be recalled by the University at any time.

When a non-student employee is the respondent, the Title IX Coordinator will coordinate throughout the grievance process with the Director of Human Resources as appropriate.

*Adopted August 14, 2020.*

*Revised April 5, 2022*