



American
Jewish
University

Procedures on Prohibition
of Unlawful Discrimination,
Harassment, and Retaliation:
Resolution Process and
Grievance Procedures

August 2024
Revised: September 2024

AMERICAN JEWISH UNIVERSITY
PROCEDURES ON PROHIBITION OF UNLAWFUL
DISCRIMINATION, HARASSMENT, AND RETALIATION:
RESOLUTION PROCESS AND GRIEVANCE PROCEDURE

Contents

1.	Overview	4
2.	Reporting.....	4
3.	Application of Section 504/Americans with Disabilities Act.....	4
4.	Procedural Scope and Jurisdiction	4
5.	Responsibilities of the Office of Equity, Compliance, and Title IX.....	5
6.	Criminal Investigation or Procedures.....	6
7.	Participation and Cooperation.....	6
8.	University's Response to a Report.....	6
	A. Initial Assessment.....	6
	B. Intake Meeting.....	7
	C. Communication from the University.....	8
	D. Privacy of Information.....	8
	E. Protocol When Complainant Declines Investigation.....	8
	F. Conclusion of Initial Assessment.....	9
9.	Dismissal of Complaints.....	11
10.	Appeal of Dismissal.....	11
11.	Consolidation of Complaints.....	13
12.	Collateral Misconduct.....	13
13.	Counterclaims.....	13
14.	Supportive Measures.....	13

15.	No-Contact Directives.....	16
16.	Emergency Removal.....	16
17.	Advisors.....	17
	A. Advisor’s Role.....	18
	B. Advisor’s Violations of Policy.....	18
	C. Advisor Expectations.....	19
	D. Sharing Records with the Advisor.....	19
18.	Expectation of Privacy.....	19
19.	Informal Resolution.....	20
20.	Investigation of Complaints	23
	A. Purpose of Investigation.....	23
	B. Prohibition of Retaliation.....	23
	C. Notice of Investigation and Allegations.....	23
	D. Timeline of Investigation.....	24
	E. Investigator and Role of the Director of Equity, Compliance, and Title IX.....	25
	F. Impartiality.....	25
	G. Standard of Proof.....	26
	H. Recording of Meetings/Interviews.....	26
	I. Initial Meeting with the Respondent.....	26
	J. Nonparticipation by Parties.....	26
	K. Collecting and Reviewing Evidence.....	26
	L. Admission of Responsibility.....	27
	M. Investigation.....	27
	N. Investigation Report	28

21.	Final Determination	28
22.	Notice of Investigation Outcome.....	29
23.	Sanctions and Remedies.....	30
	A. Sanctions.....	30
	B. Remedies.....	31
24.	Appeal of Determination.....	32
	A. Grounds for Appeal.....	32
	B. Outcome Appeal Officer.....	32
	C. Review of Appeal.....	32
	D. Appeal Considerations.....	33
	E. Appeal Conclusion.....	34
	F. Notice of Appeal Outcome.....	34
	G. Sanction Status During Appeal.....	34
25.	Withdraw or Resignation Before Complaint Is Resolved.....	35
26.	Failure to Comply with Sanctions, Responsive Actions, Corrective Actions, and/or Informal Resolution Terms.....	36
27.	Recordkeeping.....	36

1. Overview

American Jewish University ("AJU" or "the University") provides Procedures on Prohibition of Unlawful Discrimination, Harassment, and Retaliation: Resolution Process and Grievance Procedure ("Anti-DHR Procedures") for the timely and equitable resolution of unlawful Discrimination, Harassment, and Retaliation ("DHR Conduct") Complaints alleging any action that would be prohibited by Title VI and Title VII of the Civil Rights Act of 1964, the Clery Act, the California Fair Employment and Housing Act, relevant sections of the California Education Code, and other applicable federal, state and local statutes, made by Students, Employees, or other individuals who are participating or attempting to participate in its educational programs, activities, or employment.

Questions about these Procedures should be directed to the Office of Equity, Compliance, and Title IX ("Office"), to the attention of the Director, whose contact information is listed below:

Morgan Dyrek
Director of Equity, Compliance, and Title IX
15600 Mulholland Drive
Los Angeles, CA 90077
Phone: 310-440-1571
Email: morgan.dyrek@aju.edu

2. Reporting

The process for reporting a prohibited DHR Conduct to the Office of Equity, Compliance, and Title IX ("Office") under the Policy on Prohibition of Unlawful Discrimination, Harassment, and Retaliation ("Anti-DHR Policy") is provided in the Policy. The reporting form can be found on the University's [Equity, Compliance, and Title IX webpage](#).

3. Application of Section 504/Americans with Disabilities Act

Parties may request reasonable accommodations for disabilities to the Office of Equity, Compliance, and Title IX at any point relating to the implementation of these Procedures, including making a Report or Complaint, and initiating a grievance procedure. Accommodations will be granted if they are reasonable and do not fundamentally alter the processes established by the Anti-DHR Procedures. Please note that the Office will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other University programs and activities.

With the consent of the impacted student or employee, the Office will work collaboratively with the 504 Coordinator (Students) or Human Resources (Employees) to ensure that approved reasonable accommodations (disability-related) are implemented.

4. Procedural Scope and Jurisdiction

These Procedures are effective August 1, 2024, and is not retroactive. The definitions of DHR Conduct and capitalized terms below should be used for alleged misconduct that occurs on or after August 1, 2024. References for alleged misconduct that occurred before August 1, 2024 can be found in the [AJU Student Handbook 2023-2024](#) and AJU Employee Handbook (Revised July 1, 2022).

These Procedures are used to address conduct that may violate AJU's Anti-DHR Policy. The University will use these Procedures to timely, appropriately, and impartially review and respond to allegations and/or Policy Violations. AJU will also take appropriate action to prevent continuation of and correct Policy Violations. Depending on the nature of the reported conduct and the interests of the Complainant, the University's response may or may not include an Investigation.

- Who May Make a Complaint: While any individual may report alleged Policy Violations, only the following persons have a right to file a Complaint and request that the University investigate and make a determination about alleged DHR Conduct:
 - a. A Student or Employee of the University;
 - b. A person other than a Student or Employee of the University who is alleged to have been subjected to conduct that could constitute DHR Conduct at a time when that person was a Program Participant;
 - c. A person with the legal right to act on behalf of a Complainant; or
 - d. The University's Director of Equity, Compliance, and Title IX
- Complaints against the University's President or Director of Equity, Compliance, and Title IX:
 - a. Complaints against the University's President or Director of Equity, Compliance, and Title IX are administered by these Procedures and the associated Policy.
 - b. Complaints alleging violations of the Policy against the University's President shall be made to Chairperson of the Board of Directors at chairperson@aju.edu.
 - c. Complaints alleging violations of the Policy against the Director of Equity, Compliance, and Title IX shall be made to Human Resources office at hr@aju.edu, or in person at the University Human Resources office suite, Familian Campus.

The capitalized terms in these Procedures are defined in Section 6. DHR Conduct and Section 8. Policy Definitions of the Policy.

5. Responsibilities of the Office of Equity, Compliance, and Title IX

The University's Office of Equity, Compliance, and Title IX oversees implementation of the Anti-DHR Policy and Procedures. The Office is responsible for monitoring compliance with the Anti-DHR Policy and Procedures; providing education and training; tracking and reporting annually on all incidents in violation of this policy; overseeing Supportive Measures; and coordinating AJU's Investigation, response, and resolution of

all reports under the Anti-DHR Policy and Procedures. The Director's contact information is as follows:

Morgan Dyrek
Director of Equity, Compliance, and Title IX
15600 Mulholland Drive
Los Angeles, CA 90077
Phone: 310-440-1571
Email: morgan.dyrek@aju.edu

6. Criminal Investigation or Procedures

The Anti-DHR Procedures are separate from any criminal investigation or procedure implemented by an external law enforcement agency or investigatory body. The outcome under the Anti-DHR Policy may differ from criminal investigations, reports or verdicts because the standards for determining a violation of criminal law differ from the standards for determining a violation of the Anti-DHR Policy. The University may share information and coordinate Investigation efforts with law enforcement when necessary or appropriate.

7. Participation and Cooperation:

The Complainant or Respondent may participate or decline to participate in the Complaint resolution process. The University may proceed with the Complaint resolution process based on the Complaint and available information, especially if the alleged conduct poses an immediate or on-going threat to the University community. Non-participation by a Party to the Complaint may not be used as a basis for appeal.

All University community members are expected to participate in the Complaint resolution process when they are identified as Witnesses. When identified as Witnesses, Employees (including Student Employees) must participate in the Complaint resolution process. Student Witnesses are required to respond to requests for participation in Investigations and highly encouraged to be cooperative and forthcoming. Witnesses from outside the University community cannot be required to participate but are encouraged to cooperate with University Investigations and to share what they know about a Complaint.

Meeting and Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, etc.), or, in limited circumstances, by telephone. In very limited circumstances, Parties and Witnesses may also provide written statements or choose to respond to written questions in lieu of interviews, if deemed appropriate by the Investigator(s), though not preferred.

8. University's Response to a Report

A. Initial Assessment:

After receiving a Report or Complaint of DHR Conduct, the Office or designee will gather information about the reported conduct and respond to any immediate health

or safety concerns raised by the Report. The Office or designee will assess the Complainant's safety and well-being, offer the University's immediate support and assistance, and assess the nature and circumstances of the Report or Complaint to determine whether the reported conduct, if proven, raises a potential Policy Violation, or whether the reported conduct is within the scope and jurisdiction of the Anti-DHR Policy, and the appropriate manner of resolution under the Anti-DHR Policy and Procedures.

During the initial assessment, if it is determined that the reported conduct may not reasonably constitute a Policy Violation, the matter is typically dismissed from this process, consistent with the dismissal provision in the Anti-DHR Procedures. It may then be referred to another process, if applicable. Similarly, if it is determined that the reported conduct is not within the scope and jurisdiction of Anti-DHR Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these Procedures. If applicable, the conduct will be referred to the appropriate University office for resolution.

The Office or designee conducts the initial assessment typically within ten (10) Working Days of receiving Notice/Report/Complaint/Knowledge of alleged DHR Conduct. This time may be extended at the discretion of the Office with advance notice to the Complainant.

The Office or designee will provide initial outreach to each identifiable Complainant that is alleged to have experienced alleged DHR Conduct. The outreach will include the following information:

- The University has received a Report or Complaint that they may have experienced conduct prohibited by the Anti-DHR Policy;
- A description for the role/responsibilities of the Office;
- That Retaliation for filing a Report or Complaint or participating in a Complaint resolution process, or both, is prohibited;
- Counseling resources and Supportive Measures available at the University or in the community;
- That, when a crime may have occurred, the Complainant has the right to report the matter to law enforcement, but is not required to do so;
- A summary of the University's Investigation procedures;
- A request for the Complainant to meet with the Office or designee to discuss options for the Complainant and next steps, including available Supportive Measures, Informal Resolution, Investigation, and other possible measures of the Complaint resolution process;
- The right for the Complainant to be accompanied by an Advisor of choice in the process; and
- The way the University responds to reports of DHR Conduct, procedural options including informal Resolution, and a description of potential Sanctions.

B. Intake Meeting:

The Office or designee will offer an intake meeting with any Complainant who responds to initial outreach, or who makes a Report or Complaint of a potential Policy Violation. During the meeting, the Office or designee will discuss options available to the Complainant, describe the applicable procedures including Informal Resolution, Investigation, and the Complaint resolution process, and inform Complainant of available Supportive Measures. The Office or designee will determine if a follow-up intake meeting with the Complainant is needed, as appropriate. Any subsequent investigatory interview with the Complainant will be conducted by the assigned Investigator, and is meant to clarify and expand on the information shared during intake.

C. Communication from the University:

Communication from the University to involved Parties will be sent to their designated AJU email address, unless the Party has requested in writing to the Office or Investigator that communication be sent to a different email address. Communication with Parties who are neither Students nor Employees will be sent to an email address that they provide. The University will provide, in writing, any communication about the outcome of an Investigation to the Complainant and the Respondent at the same time. Once emailed, the University's communications will be presumptively delivered. It is the responsibility of the Parties and Witnesses to respond to communications, and failing to retrieve email is not a valid excuse for failing to respond.

D. Privacy of Information:

The University will maintain the Privacy of Reports, Complaints, and associated information whenever possible. When applicable, to protect the campus community and to facilitate Investigations and/or Supportive Measures, certain information may be shared on a "need-to-know" basis.

E. Protocol for When Complainant Declines Investigation:

When a Complainant does not wish to proceed with an Investigation, the Office or designee will determine whether an Investigation should be initiated. The Office or designee will also inform the Complainant that the ability for the University to take corrective action may be limited. The Office or designee has ultimate discretion on whether an Investigation is initiated. The Office or designee will determine, based on the facts available at the time, whether not initiating an Investigation would either: 1) create a serious and imminent threat to a person's safety; or 2) prevent the University from providing equal access to its educational programs, activities, or employment for an individual. The Office or designee will consider, at a minimum, the following factors to determine whether to initiate an Investigation:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of DHR Conduct would occur if a Complaint is not initiated;
- The severity of the alleged DHR Conduct, including whether the DHR Conduct, if established, would require the removal of a Respondent from

campus or imposition of another Sanction to end the DHR Conduct and prevent its recurrence;

- The scope of the alleged DHR Conduct, including information suggesting a pattern (such as multiple or prior reports of misconduct against the Respondent), ongoing DHR Conduct, or DHR Conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-Maker in determining whether DHR Conduct occurred;
- Whether the University is able to conduct a thorough Investigation and obtain relevant evidence without the Complainant's cooperation;
- Whether the University could end the alleged DHR Conduct and prevent its recurrence without initiating the Complaint resolution process;
- For Employee Complainants, the Office or designee will also consider the University's obligation to maintain a safe work environment.

The Office or designee will document the basis for the decision to initiate or to not initiate the Investigation based on this criteria.

The Office or designee will also complete the following, as needed:

- Communicate necessary details of the report to campus safety official for entry into the University's daily crime log if required by the Clery Act;
- If the Complainant is a minor or was a minor at the time of the alleged DHR Conduct that would constitute a criminal act, make the appropriate notifications to state agencies.

F. Conclusion of Initial Assessment:

At the conclusion of the initial assessment, the University will proceed with one of the following options:

1. Proceed with an Investigation: This occurs when- 1) a Complainant requests an Investigation, and the Office or designee determines that the request is appropriate; or 2) the Office or designee determines that an Investigation must be pursued even when a Complainant requests that no Investigation be pursued.
 - a. When the Office or designee initiates an Investigation without a Complainant's participation, the Director will file the Complaint on behalf of the University. However, the Director does not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a Policy Violation. The Director or designee will remain neutral in applying these Policy and Procedures. The Director or designee will provide the Complainant with the same communications and opportunities to participate as the Respondent throughout the Investigation, unless the Complainant confirms in writing that they decline participation in the process and receipt of communications. The Complainant may change their decision at any time by writing to the Office.

In addition, the Complainant will be notified in advance that the Office or designee will be disclosing their identity and details of the Complaint or Report to the Respondent, or that an Investigation is being initiated. When appropriate, the Office or designee will work with other University officials to set up reasonable safety measures for the Complainant. If the Complainant asks the University to inform the Respondent of their request for the University to not investigate or seek discipline, the Office or designee will do so.

- b. If the University proceeds with an Investigation, the Office or designee will send a Notice of Investigation to the Complainant and Respondent within 10 Working Days of the date of an intake meeting or receipt of a request for Investigation from the Complainant (whichever is later), or when a determination was made that an Investigation is necessary without a request from or participation by the Complainant. This time may be extended at the discretion of the Office with advance notice to the Complainant.
2. Proceed with the Informal Resolution process: This will always require the consent of the Complainant and the agreement of the University. The consent of the Respondent is also required when the nature and form of Informal Resolution involves Respondent's participation.
3. Does not proceed with an Investigation: This occurs when- 1) the alleged conduct is outside the scope and jurisdiction of the Anti-DHR Policy, and the Office or designee will refer the matter to another appropriate office or department for resolution under the relevant policy; or 2) the alleged conduct, even if true, would not constitute a Policy Violation; or 3) a request for no Investigation is granted.
 - a. If the alleged conduct is outside the scope and jurisdiction of the Anti-DHR Policy or would not constitute a Policy Violation, the Office or designee will notify the Complainant in writing that the allegation will not be investigated without further information, within 10 Working Days of the date of an intake meeting or receipt of a written request for Investigation (whichever is later). The Office or designee may refer the Complainant to the appropriate University office for resolution and will notify the Complainant of any referral. This time may be extended at the discretion of the Office with advance notice to the Complainant.
 - b. If a request for no Investigation is granted, the Office or designee will still take reasonable actions to limit the effects of the alleged DHR Conduct, and prevent its recurrence without initiating formal action against the Respondent or revealing the identity of the Complainant. The University will take reasonable actions to ensure the safety of the Complainant while keeping the Complainant's identity private as appropriate and if possible. The Complainant will be informed that the actions that the University will take may be limited by the request for no Investigation. The Office or

designee will also inform the Complainant of their option to request an Investigation in the future, and that the University may determine a need to investigate the alleged misconduct in the future.

After the initial assessment, the Office or designee will document in writing their determination of whether to initiate an Investigation. The documentation will be maintained according to the recordkeeping protocols described in these Procedures.

9. Dismissal of Complaints

The University may dismiss a Complaint when information gathered during the Investigation or Complaint resolution process demonstrates that:

- A. The Complainant notifies the Office in writing that they would like to withdraw the Complaint or any part of it;
- B. If the specific circumstances prevent the University from reasonably gathering evidence needed to reach a determination for the Complaint or part of the Complaint; or
- C. The University determines the conduct alleged in the Complaint would not constitute DHR Conduct, even if proven. Complaints that are dismissed on this ground may be referred to another process or University office for review under other potentially applicable policies.

A decision to dismiss a Complaint on the basis of any of the above-listed factors is made at the discretion of the Office. The University will promptly provide written notice of the dismissal to the Complainant, including the rationale for the dismissal and their right to appeal the dismissal. If the dismissal occurs after the Respondent has been made aware of the allegations, the University will also notify the Respondent of the dismissal in writing, including the reason for it and their right to appeal. Supportive measures will be offered to Parties, as appropriate. If the University elects to continue to pursue the matter outside of the Policy, the Office or designee shall provide written notice to the Complainant, and if applicable, the Respondent.

A Decision-Maker can recommend dismissal to the Office, if they believe the above-listed grounds are met. In addition, a Complainant who decides to withdraw a Complaint may later request to reinstate or re-initiate the Complaint.

10. Appeal of Dismissal

The Complainant may appeal a dismissal of the Complaint. If the dismissal occurs after the Respondent has been made aware of the allegations, the Respondent may also appeal the dismissal of the Complaint. All appeals of dismissals must be in writing and filed with the Office within five (5) Working Days of the notice of dismissal.

The grounds for dismissal appeals are limited to the following:

- Procedural irregularity that would change the outcome of the decision to dismiss;

- New evidence that would change the outcome of the decision to dismiss and that was not reasonably available when the dismissal was decided;
- The Director or designee, Investigator, and/or Decision-Maker had a conflict of interest or bias for or against the Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

The dismissal appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. This appeal will be provided in writing to the other Party.

Upon receipt of a dismissal appeal from one or more Parties, the Office or designee will notify the other Party that an appeal is submitted. If the Complainant appeals, but the Respondent was not notified of the Complaint, the Office or designee will notify the Respondent in writing of the allegation(s) made against them, that an appeal of dismissal has been filed, and the opportunity for them to respond.

The non-appealing Party may respond in writing to the notice of appeal within five (5) Working Days of the date they were issued the notice by the Office or designee. The response may include a statement in support of or challenging the dismissal. At the conclusion of the response period, the Office or designee will forward the appeal, as well as any response provided by the other Party to the Dismissal Appeal Officer for determination.

The Dismissal Appeal Officer will be an individual who has been trained and who has not taken part in an Investigation of the allegations or dismissal of the Complaint. The University President or designee will act as the Dismissal Appeal Officer for all dismissal appeals. The Dismissal Appeal Officer has ten (10) Working Days to review and decide on the appeal.

The Dismissal Appeal Officer has discretion to extend the timeline of the dismissal appeal process for good cause or for any reasons deemed to be legitimate by the University. This includes timelines for filing an appeal and for the Dismissal Appeal Officer to respond to the appeal. The Dismissal Appeal Officer will notify the Parties and the Office of any extensions granted for any portion of the appeal process.

The Dismissal Appeal Officer will not consider evidence that was not provided to the University previously unless the new evidence was not reasonably available at the time of the dismissal decision. In addition, the review of appeal is to be confined to written documentation or record of the original dismissal determination and relevant documentation regarding the specific appeal grounds.

If the dismissal appeal does not provide information that meets the grounds in these Procedures, the request will be denied by the Dismissal Appeal Officer. The Dismissal Appeal Officer will notify the Parties and the Office in writing of the denial and the rationale. The Dismissal Appeal Officer's appeal response is final and not appealable under these Procedures.

The Dismissal Appeal Officer may consult with the Office including the Director, and/or

legal counsel on questions of procedure or rationale for clarification, if needed.

11. Consolidation of Complaints

At the discretion of the Office, the University may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations arise from the same facts or circumstances or involve a pattern, complicity, and/or other shared or similar actions. During the Investigation, if the existence of additional or different violations of the Anti-DHR Policy are revealed, they may also be consolidated after the Parties are notified. Information shared in the Consolidation process is subject to the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws.

12. Collateral Misconduct

Collateral misconduct includes potential violations of other university policies not incorporated into the Anti-DHR Policy that occur in conjunction with alleged Policy Violations, or during the Investigation and Complaint resolution process, and as to which it makes sense to combine all allegations and provide one resolution. Examples of collateral misconduct include, but is not limited to, vandalism, physical abuse of another, making a false statement. The collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under the Anti-DHR Procedures, provided that it does not unduly delay the timely resolution of the Complaint. In such circumstances, the Office or designee may consult with University officials who typically oversee such conduct (e.g., human resources, student conduct) to solicit their input as needed on what charges should be filed, but the processing of collateral charges under these Procedures is within the discretion of the Office or designee. All other allegations of misconduct unrelated to incidents covered by the Anti-DHR Policy will typically be addressed separately through procedures described in applicable University policies, manuals, or handbooks.

13. Counterclaims

The University is dedicated to ensuring that the Anti-DHR Procedures are not abused for the purpose of Retaliation. The University allows the filing of counterclaims but will consider whether the counterclaim is made in good faith. Counterclaims made with a retaliatory intent are not permitted and may result in an additional Policy Violation of Retaliation against the Party who raised the counterclaim.

Counterclaims determined to have been made in good faith will be investigated under the Anti-DHR Procedures. The Office has discretion to either delay the Investigation of counterclaims after the underlying initial allegation has been resolved or resolve the counterclaim through the same Investigation as the underlying initial allegation.

14. Supportive Measures

Supportive Measures are actions taken by the University in response to a Report of DHR Conduct to meet the needs and protect the rights of the Parties and/or other members of the University community, as appropriate. They are offered, without fee or charge to the Parties, to restore or preserve access to the University's employment or educational programs or activities, including measures designed to protect the safety of all Parties and/or the University's educational environment and/or to deter DHR Conduct. The Office or designee is responsible for implementing Supportive Measures, if measures are requested and reasonably available.

Supportive Measures may include:

- Referrals to counseling and/or employee assistance programs
- Referral to community-based service providers
- Student financial aid counseling
- Education to the University community or community subgroup(s)
- Increased security and monitoring of certain areas of the campus
- Altering work arrangements for Employees or Student-employees
- Academic support, extensions of deadlines or other course/program-related adjustments for Students
- Class schedule modifications or withdrawals for Students
- Leaves of absence for Students or Employees
- Directives/orders limiting interactions between parties (unilateral or mutual, depending on the circumstances)
- Trespass or persona non grata (PNG) instructions
- Timely warnings
- Any other actions deemed appropriate by the Office or designee

Supportive Measures are individualized services offered as appropriate to either or both the Complainant and Respondent involved in an incident of DHR Conduct prior to an Investigation or while an Investigation is pending. As noted above, an individual may request to receive support – including the measures mentioned in this section – even if they do not choose to participate in the University's Complaint resolution process. In the case of Students, such measures shall not be punitive and shall be applied to the fullest extent possible to avoid depriving any Student of their education.

The granting of Supportive Measures does not imply a determination of responsibility or any other outcome. These measures may be modified at any time and may be kept in place after a final decision is reached as to whether a Policy Violation has occurred.

Any Supportive Measures put in place will be kept Private, provided that doing so does not impair the University's ability to provide Supportive Measures. This means that the University will not share information about any Supportive Measures with anyone other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to arrange or provide the Supportive Measure or restore or preserve a Party's access to the University's educational programs, activities, or employment, or when otherwise required by state or federal law. The University will act to ensure as minimal an academic/occupational impact on the Parties as possible. The University will implement measures in a way that does not unreasonably burden any Party.

The Office or designee will describe and offer Supportive Measures to a Complainant during the initial assessment (even if no Complaint is made or the Complaint is ultimately not investigated) via a written notification, and if applicable, during an initial intake meeting with the Complainant. At the time that supportive measures are offered, if a Complaint has not been filed, the University will inform the Complainant, in writing, that they may file a Complaint with the University either at that time or in the future

If and when a Respondent is notified of the Complaint, the Office or designee will also offer Supportive Measures to the Respondent. A written notification will be sent to the Respondent, and this information will also be provided during an initial meeting with the Respondent.

The Parties are provided with a timely opportunity to seek modification or reversal of the University's decision to provide, deny, modify, or terminate Supportive Measures applicable to them. A request to do so should be made in writing to the Office. An impartial employee other than the employee who implemented the Supportive Measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the Supportive Measures if they are inconsistent with the requirements, expectations, or standards as stated in the Anti-DHR Policy and Procedures.

- If the original decision about Supportive Measures was made by a person with authority designated by the Director, the review will be conducted by the Director.
- If the original decision about Supportive Measures was made by the Director, the review will be conducted by the University President.

If the reviewer determines that the decision to provide, deny, modify, or terminate the Supportive Measure was inconsistent with the requirements, expectations, or standards for Supportive Measures as stated in the Anti-DHR Policy and Procedures, the reviewer may modify or reverse the decision. In making this determination, the reviewer should consider:

- Do the Supportive Measures unreasonably burden a Complainant or Respondent?
- Are the Supportive Measures punitive?
- Are the Supportive Measures reasonably available and do they restore access to the University's programs, activities, or employment?
- Are the Supportive Measures being offered or provided during the Informal Resolution process or Investigation process?

The University will also provide the Parties with the opportunity to seek additional modification or termination of Supportive Measures applicable to them if circumstances change materially. The University typically renders decisions on Supportive Measures within seven (7) Working Days of receiving a request and provides a written determination to the impacted Party or Parties, and the Office (when applicable).

15. No-Contact Directives

No-contact directives may be issued as a Supportive Measure, Remedy, or in connection with an Informal Resolution agreement, regardless of whether an Investigation has been initiated. The University will issue an interim no-contact directive when reasonably requested by a Complainant or otherwise determined to be necessary to protect health and safety or to preserve the integrity of the Investigation. The interim no-contact directive may be unilateral (prohibiting the Respondent from contacting the Complainant) or mutual (prohibiting the Parties from contacting each other) while the Investigation outcome is pending.

No-contact directives that are not part of an Informal Resolution agreement must abide by these requirements:

- No-contact directives that limit an individual's movement on a University campus may only be issued where the conduct alleged poses an objective threat of physical harm.
- A mutual no-contact directive may only be issued prior to an Investigation outcome. Mutual no-contact directives will not be issued automatically. The University must consider the specific circumstances of the situation to determine whether a mutual no-contact directive is necessary or justifiable to protect the Respondent's safety or well-being, or to respond to interference with an Investigation.
- A no-contact directive issued as a Remedy after a decision of responsibility has been made will be unilateral and only apply against the Respondent.
- A mutual no-contact directive that is already in effect when a decision of responsibility has been made will promptly be converted to a unilateral no-contact directive against the Respondent, unless there are extenuating circumstances.
- Any no-contact directive (whether mutual or unilateral) will be sent to both Parties in writing and will include a written explanation of the terms of the directive and the consequences for violating the no-contact directive. A no-contact directive is intended to be temporary and should be periodically assessed to confirm the continued need for, and appropriateness of, its specific terms (conditions), including whether it should be mutual (applicable to both Parties), or unilateral (only applicable to the Respondent).

Violations of no-contact directives or other restrictions may be referred to appropriate Student or Employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under the Anti-DHR Policy and Procedures.

16. Emergency Removal

The University may remove a Respondent accused of DHR Conduct at any point during the Complaint resolution process on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of themselves, a Complainant, any Student, Employee, or other individual justifies the

removal. The removal is referred to as an "emergency removal," and has the effect of a suspension on an interim basis, as set forth in the University's Student Handbook and Employee Handbook, including that during the period of the emergency removal, the Respondent may be restricted or denied access to any University campus (including classes) and /or any or all other University activities or privileges for which the Student or Employee might otherwise be eligible.

The emergency removal may take place upon receipt of Notice or Knowledge, a Complaint, before an Investigation concludes, or where there is no pending Investigation. The risk analysis will be performed by the Office or designee, in consultation with the appropriate University entities (e.g. Student Affairs, Human Resources, etc.)

The Office has sole discretion under the Anti-DHR Policy and Procedures to implement or continue an emergency removal and to determine the conditions and duration. Violation of an emergency removal by a Respondent will be grounds for discipline, up to and including expulsion or termination, respectively, through appropriate conduct policies.

A Respondent who is placed on emergency removal shall continue to be subject to University policies and procedures, and any applicable University handbooks, manuals, codes of conduct. The Respondent placed on an emergency removal may request to be present on campus for official business/meetings/interviews with prior written approval from the University President or designee.

When an emergency removal is implemented, the University will notify the Respondent of the action in writing, including a rationale, and the option to appeal the emergency removal within three (3) Working Days of the notification. The Respondent may wish to show cause why their continued presence on campus does not constitute a threat.

Upon receipt of an appeal, the Office or designee will meet with the Respondent (and their Advisor, if requested) as soon thereafter as reasonably possible, to allow the Respondent to show cause why the action/removal should not be implemented or should be modified. When this meeting is not requested within three (3) Working Days, objections to the emergency removal will be considered waived.

The Respondent may provide information, including expert reports, Witness statements, communications, or other documentation for review prior to or during the meeting. When applicable, a Complainant may provide information to the Office for consideration.

The meeting to review an emergency removal appeal is not a hearing on the merits of the allegation(s). It is an administrative process intended to determine whether the emergency removal is appropriate. A Complainant and their Advisor may be permitted to participate in this meeting if the Office determines it is equitable to do so. The Office may also request other individuals at the University who may have pertinent information to attend.

An emergency removal may be affirmed, modified, or lifted as a result of an appeal review or as new information becomes available. The Office or designee will communicate the final decision in writing, typically within three (3) Working Days of the review meeting.

There is no appeal process for emergency removal decisions following the appeal review meeting.

17. Advisor

Parties may elect to have an Advisor be present with them for all meetings and interviews during the Complaint resolution process. The parties may select an Advisor of their choosing, as long as the Advisor is willing, eligible, and available. Parties also have the right to choose not to have an Advisor.

The Advisor may be a friend, mentor, family member, attorney, or any other person, as long as they are not also a Witness or otherwise a participant in the Complaint resolution proceedings. The Advisor may not be an Employee of the University or someone who could present a conflict of interest during the Complaint resolution process.

A Party may elect to change Advisors during the Complaint resolution process and is not obligated to use the same Advisor throughout. Parties are expected to promptly notify the Office if they change Advisors. If a Party changes Advisors, their consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

The Parties are expected to inform the Investigator of the identity of their Advisor at least two (2) Working Days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

If a Party requests that all communication be made through an attorney serving as their Advisor instead of to themselves, the University will agree to copy both the Party and their attorney Advisor on all communications.

The University cannot guarantee equal Advisory rights. This means that, if one Party selects an Advisor who is an attorney but the other Party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

A. Advisor's Role:

Advisors should help the Parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors cannot provide testimony or speak on behalf of their advisee, unless granted permission to do so.

The Parties are expected to ask and respond to questions on their own behalf throughout the Complaint resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

B. Advisor's Violations of Policy

All Advisors are subject to the Anti-DHR Procedures, regardless of their status as attorneys. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University officials in a meeting or

interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-Maker(s).

Any Advisor who oversteps their role as defined by the Anti-DHR Policy and Procedures, who shares information or evidence in a manner inconsistent with Anti-DHR Policy and Procedures, or who refuses to comply with the University's rules of conduct for their role, will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview will be ended or other appropriate measures implemented, including the University requiring the Party to use a different Advisor. Subsequently, the Office will determine how to address the Advisor's non-compliance and future role.

C. Advisor Expectations

The University typically expects an Advisor to adjust their schedule to allow them to attend University meetings/interviews when planned, but the University may change scheduled meetings/interviews to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview by telephone, video conferencing, or other appropriate technologies. The University expects an Advisor to be physically present for in-person Decision-Maker questioning meetings. Similarly, if a Decision-Maker questioning meeting is held virtually via the internet, an Advisor is expected to participate in that context.

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not.

D. Sharing Records with the Advisor

If Parties wish for the University to share documentation and evidence related to the allegations with their Advisors, they must provide consent in writing to the Office, stating that they consent to a release of information to the Advisor. This must be completed before the University is able to share records with an Advisor.

Advisors are expected to maintain the Privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's Privacy expectations.

18. Expectation of Privacy

The Complaint resolution proceedings are private. All persons present at any time during the Complaint resolution Process are expected to maintain the Privacy of the proceedings in accordance with University Policy. While there is an expectation of Privacy around what Investigators share with Parties during interviews, the Parties have discretion to share their own knowledge and evidence with others if they so choose. The University

encourages Parties to discuss this with their Advisors before doing so.

19. Informal Resolution

An Informal Resolution is a method to resolve a concern of potential DHR Conduct. Informal Resolutions are voluntary and optional. Parties not interested in an Informal Resolution are under no obligation to engage in one. Moreover, any Party participating in Informal Resolution process can withdraw at any time before it is finalized and initiate or resume the Formal Resolution process.

The Office has discretion to determine whether it is appropriate to offer an Informal Resolution process and to decline proceeding to Informal Resolution despite the request of one or more of the Parties. The Office may decline to offer Informal Resolution when they determine that the alleged conduct would present a future risk of harm to others, or when the Complaint involves allegations made by a Student against an Employee.

To initiate consideration of an Informal Resolution, a Complainant or Respondent may contact the Office at any time prior to a Final Determination of responsibility or the Office may offer the option to the Parties. Prior to proceeding with an Informal Resolution, the University will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

If an Informal Resolution option is not available or selected, the University will initiate or continue the Formal Resolution process to determine whether there is a Policy Violation.

If a Party requests the initiation of an Informal Resolution process and the Office agrees that the matter is appropriate for Informal Resolution, each Party will receive written information that discloses:

- The allegations of Policy Violation(s);
- Information about Informal Resolution options;
- The Parties' right to consult with an Advisor;
- Any resolution must be in writing and signed by both Parties and the Director;
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the Informal Resolution process and to initiate or resume the Formal Resolution process;
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the Formal Resolution process arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties; and
- What information the University will maintain, and whether and how it could disclose such information for use in the Formal Resolution process if that process begins or resumes.

The University offers four categories of Informal Resolution:

- 1) **Supportive Resolution.** When the Office resolves the matter informally by providing Supportive Measures (only) designed to remedy the situation.
- 2) **Educational Conversation.** When the Office resolves the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations. Sometimes a Complainant may choose to confront the conduct by participating in this discussion.
- 3) **Accepted Responsibility.** When the Respondent is willing to accept responsibility for a Policy Violation and is willing to agree to actions that will be enforced similarly to Sanctions, and the Complainant(s) and University are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism, which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, or facilitated dialogue.

With approval from the Office, the Parties may voluntarily agree on the process that best meets the interests and needs of the Parties. The details of the agreed upon process will be shared with the Parties by the Office or designee.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-Maker, or Appeal Officer. The Office may appoint a trained internal or external Informal Resolution Facilitator to facilitate resolution, or may facilitate resolution directly with the parties, where appropriate.

The Facilitator must be impartial and free from bias or conflict of interest. If the Facilitator has concerns that they cannot facilitate a fair or unbiased process, the Facilitator must report those concerns to the Office and a different Facilitator will be assigned. Similarly, a Party who has concerns that the assigned Facilitator cannot enable a fair and unbiased process, may report those concerns to the Office who will assess the circumstances and determine whether a different Facilitator should be assigned to the Informal Resolution process.

Individuals who wish to participate in an Informal Resolution process must have successfully completed preparatory meetings with the Informal Resolution Facilitator. Individuals may be accompanied by an Advisor at any meetings related to the Informal Resolution process.

The Office or Facilitator may consider the following factors to assess whether Informal Resolution is appropriate, or which form of Informal Resolution may be most successful for the Parties:

- Likelihood of potential resolution
- The nature and severity of the alleged misconduct
- Results of an ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Complaint complexity

- Goals of the Parties
- Adequate resources to invest in Informal Resolution (e.g., time, staff)

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Resolution process, should Informal Resolution not be successful. If an Investigation is already underway, it will be paused during the Informal Resolution process until the proceedings concluding.

Parties, usually through their Advisors, may offer Informal Resolution proposals, often including terms of confidentiality, release and non-disparagement. The University is under no obligation to accept a proposal but the Office or designee will review such proposals in good faith. Parties do not have the authority to require restrictions or obligations for individuals or groups that are not involved in the Informal Resolution Process. The Office or designee will determine whether additional individual or community Remedies are necessary to meet the University's compliance obligations in addition to the alternative resolution.

Any agreements reached in an Informal Resolution must be documented by the Informal Resolution Facilitator and approved by the Office to ensure consistency with the University's obligations to pertinent federal and state laws. An agreement will not be considered valid if the Office does not approve it. If the Office or designee approves an agreement after the Parties have voluntarily reached consensus as to its terms, the Respondent will be required to comply with the agreement. Once the Office approves an agreement, the Parties are bound by its terms and cannot return to the Formal Resolution process.

Parties will sign the Informal Resolution agreement. The agreement will often include terms of confidentiality, release, and non-disparagement. The use of electronic signatures is permitted. A signed Informal Resolution agreement is final and is not appealable by either Party.

If no agreement is reached, the matter may be referred to the Office for further action.

The Informal Resolution process may take place at any time before a Finding of responsibility is made, but no later than 60 Working Days after both Parties voluntarily consent in writing to participate in the Informal Resolution process. The Parties and the Office may agree to extensions of the 60 Working Day deadline, as appropriate, which will be confirmed in writing.

To fairly assess pattern or systemic behavior, the Office or designee will maintain records of all Reports and conduct referred for Informal Resolution. While the University will seek to honor the confidentiality of the Parties' communications with the Facilitator during the Informal Resolution process to the extent necessary to facilitate the resolution, the University may be required to produce records created during this process in response to a judicial subpoena, law enforcement search warrant, or a FERPA educational record request. If Informal Resolution is stopped prior to completion, statements made by a Party in Informal Resolution may only be used in the Formal Resolution process related to that

matter, when both Parties have agreed in writing to what statements or evidence could be considered in the Formal Resolution process.

The University maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Complaint resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the Agreement, etc.).

20. Investigation of Complaints

A. Purpose of Investigation

The purposes of an Investigation are to determine whether a Policy Violation has occurred, and what Remedies and other actions should be put in place to correct the effects of the Policy Violation and provide an environment free from DHR Conduct.

B. Prohibition of Retaliation

The University strictly prohibits Parties or Witnesses from retaliating against anyone for reporting or filing a Complaint, assisting or participating in an Investigation or proceedings associated with the Complaint resolution process, interfering with a Party's or Witness's rights or privileges under the Anti-DHR Policy and Procedures, or for assisting an individual in reporting or opposing conduct prohibited by the Anti-DHR Policy. Any acts of Retaliation are subject to disciplinary action.

C. Notice of Investigation and Allegations

Upon the initiation of an Investigation, a written Notice of Investigation (NOI) will be provided to the Parties. The NOI will include the following information:

- A summary of the allegations;
- The precise misconduct being alleged;
- The identity of the involved Parties (if known);
- The date and location (if known) of the alleged incidents;
- The specific policies implicated;
- A link to the Anti-DHR Policy and Procedures;
- An explanation that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all Relevant and not otherwise impermissible evidence;
- A statement that the Parties will have equal opportunities to identify Relevant Witnesses and evidence in connection with the Investigation and at any proceedings, including the ability to: submit documentary information and/or list of potential Witnesses to the Investigator; or request that the Investigator attempt to collect additional relevant evidence;
- A statement that any evidence available, but not disclosed during the Investigation might not be considered in any Findings made, including at any

- proceedings, and likely will not be considered for purposes of appeal;
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Office any conflict of interest that the Investigator(s) may have;
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination;
- The estimated timeline for completion of the Investigation;
- An explanation that each party may be accompanied by an Advisor of their choice;
- A statement about the University's policy on Retaliation;
- Information about the Privacy of the process;
- A statement informing the Parties that the University's Anti-DHR Policy prohibits knowingly making false statements, including knowingly submitting false information during the Complaint resolution process;
- Detail on how the Party may request disability accommodations during the Complaint resolution process;
- Information about Supportive Measures;
- A statement of the potential Sanctions or Remedies; and
- The University's stance on amnesty for Complainants and Witnesses;

Should additional allegations be added to the Investigation at a later time that are materially different from those described in the original NOI, the Office or designee will issue an amended NOI to both Parties, along with a corresponding revised timeline for completion.

The NOI will be emailed to the Parties' University-issued email accounts. Once emailed, the NOI will be presumptively delivered.

D. Timeline of Investigation

An Investigation under these Procedures should generally be completed within 90 Working Days, between when the Notice of the Investigation is provided to the Parties and when the Investigation Report is provided to the Decision-Maker for Final Determination. A Party or the Investigator may request a reasonable extension of the timeline at any time from the Office. This timeline can be extended as necessary for good cause by the Office or designee.

Good cause may include:

- The reasonable absence of a Party and/or Witness;
- A request from law enforcement to delay the Investigation temporarily;
- The need to provide disability accommodations, or other modifications to allow the full participation of a Party or Witness;
- Health conditions of a Party and/or Witness;
- Academic breaks or exam periods;
- The severity and extent of the alleged misconduct;
- An Investigation that involves multiple Complainants, multiple Respondents, a large number of Witnesses, and voluminous evidence or records; or

- Other extenuating circumstances that are not within the control of the University, or Parties/Witnesses.

If an Employee is off contract or between semesters, they are not excused from their expected participation in the Complaint resolution process, unless sufficient appropriate cause is provided to the University.

If a Party or Witness chooses not to participate in the Complaint resolution process or becomes unresponsive, the University reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory Parties retain the rights outlined in these Procedures and the opportunity to resume participation.

The University will promptly resume its Complaint resolution process as soon as feasible. The Parties will receive regular updates on the progress of the Complaint resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process. During such a delay, the University will implement and maintain supportive measures for the Parties as deemed appropriate.

The Office is the final decision-maker with respect to all extensions.

University action(s) or processes are not typically changed or stopped on the basis that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

E. Investigator and Role of the Director of Equity, Compliance, and Title IX

Once an Investigation is initiated, the Director appoints an Investigator(s) to conduct the Investigation. The Director may appoint themselves, or a properly trained external Investigator. If the Investigation is assigned to an Investigator, the Director will supervise and oversee the Investigation, including reviewing all Investigation Reports before they are final to ensure that the Investigation complies with these Procedures. If the Director investigates the Complaint, an appropriately trained University official or external professional will review all Investigation Reports in the place of the Director.

F. Impartiality

Any individual materially involved in the administration of the Complaint resolution process, including the Director or designee, Investigator(s), and Decision-Maker(s), should not have or demonstrate a conflict of interest or bias for a Party generally, or for a specific Complainant or Respondent. A Decision-Maker may be the same person as the Director or Investigator.

A conflict of interest exists if a person has a personal relationship with one of the Parties or Witnesses, reports to or is supervised in employment by a Party, or has demonstrated actual bias towards a Party or Witness or towards Complainants or Respondents in general. Mere belief or opinion does not constitute evidence of bias or conflict of interest.

The Director will vet the assigned Investigator(s), Decision-Maker(s), and Appeal Officers to ensure there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may, at any time during the Formal Resolution Process, raise a concern regarding bias or conflict of interest, and the Director will determine whether the concern is reasonable and supportable. If so, another individual will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Director, concerns should be raised with the President of the University.

The Complaint resolution processes involve an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy Violation and evidence that supports that the Respondent did not engage in a Policy Violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or Witness. All Parties have a full and fair opportunity, through the Investigation process, to suggest Witnesses and questions, to provide evidence, and to receive a written Investigation report that accurately summarizes this evidence.

G. Standard of Proof

The standard of proof for Investigation and other proceedings under these Procedures is the Preponderance of the Evidence.

H. Recording of Meetings/Interviews

Unauthorized audio or video recording of any kind is not permitted during Investigation meetings or interviews. If Investigator(s) elect to audio and/or video record interviews, all involved Parties must be made aware of and consent to audio and/or video recording.

I. Initial Meeting with the Respondent

The Office or designee will offer the Respondent an initial meeting not meant to be investigatory in nature. During the meeting, the Director or designee will explain the allegations made, the Investigation process, and the Respondent's rights during the Complaint resolution process. The Director or designee will also describe the opportunity for Respondent and Complainant to present evidence, identify Witnesses, and review evidence. If this is the first meeting with the Respondent, the Title IX Coordinator will also discuss the availability of Supportive Measures.

J. Nonparticipation by Parties

The Respondent will not be found to have committed a Policy Violation solely based on their nonparticipation in the Investigation process. Neither will the Respondent be found not to have committed a Policy Violation solely based on a Complainant's or other Witness's nonparticipation in the Investigation process.

K. Collecting and Reviewing Evidence

During the Investigation, the Investigator will make a reasonable effort to gather all Relevant evidence from the Parties, Witnesses, or other sources. The University will provide an equal opportunity for the Parties to identify Witnesses and other Relevant inculpatory and exculpatory evidence.

Relevant evidence is that which may aid in determining whether the alleged conduct constitutes a Policy Violation. Inculpatory evidence shows or tends to show a person's involvement in the alleged conduct. Exculpatory evidence shows or tends to show that a person was not involved in the alleged conduct.

The Parties are encouraged to provide all Relevant information as soon as practicable to aid in the timely resolution to the Complaint.

The Investigator will interview the Parties and Relevant Witnesses and review documents and physical evidence. As appropriate to the Investigation, the Investigator may conduct follow-up interviews or request responses to questions in writing. Questions are Relevant when they seek evidence that may aid in showing whether or not the alleged conduct occurred.

The investigator has broad discretion in determining whether an identified Witness or provided documentary evidence would be Relevant. The Investigator might decline to speak to an offered Witness based on some of the following factors: there is not a sufficient basis that the person could provide insightful information to help assess whether a Policy Violation occurred; the person would provide repetitive information; cost considerations weighed against the significance of the information; or Privacy and Confidentiality concerns weighed against the significance of the information.

L. Admission of Responsibility

At any point in the proceedings, a Respondent may elect to admit to the charged Policy Violations (i.e. accept responsibility for the alleged DHR Conduct) and waive further process. The Respondent must accept responsibility in writing. The Decision-Maker is authorized to accept that admission, adopt it as their Finding/Final Determination, and administer Sanction(s). This would also waive all rights for the Respondent to appeal on the Finding.

The Parties may appeal the Sanction(s), only on the basis that the Sanction(s) was objectively unreasonable or subjective based on the Policy Violation for which Respondent accepted responsibility. The appeal process is outlined the Appeal of Determination section of these Procedures.

When the Respondent admits responsibility for some but not all of the charged Policy Violations, the Investigation and adjudication process will continue unless the Complaint is otherwise resolved through Informal Resolution.

M. Investigation

The Investigator(s) typically completes the following investigatory steps, if not already completed and not necessarily in this order:

- Assist the Office, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy Violation.
- Work with the Office, as necessary, to prepare the initial Notice of

Investigation (NOI). The NOI may be amended with any additional or dismissed allegations.

- Commence an exhaustive, reliable, and impartial Investigation by identifying issues and developing a strategic Investigation plan, including a Witness list, evidence list, intended Investigation timeframe, and order of interviews for the Parties and Witnesses.
- When participation of a Party is expected, provide that Party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Make good faith efforts to notify each Party of any meeting or interview involving another Party, in advance when possible.
- Interview the Complainant and the Respondent and conduct follow-up interviews with each, as necessary.
- Interview all available, relevant Witnesses and conduct follow-up interviews as necessary.
- Allow each Party the opportunity to suggest Witnesses.
- Where possible, complete the Investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the Investigation.

All information that Parties would like the Decision-Maker to consider must be provided to the Investigator during the fact-gathering portion of the Investigation process. Information that was not provided to the Investigator will not be reviewed by the Decision-Maker.

N. Investigation Report

At the conclusion of all interviews and fact-gathering, and when Relevant evidence has been gathered, the Investigator will prepare an Investigation Report summarizing all the Relevant evidence gathered and all investigative steps taken to date. The Investigation Report will include:

- A description of the allegations;
- A description of the investigative steps completed to date;
- A reference to the appropriate Anti-DHR Policy language and the Preponderance of Evidence standard.
- A description of the Relevant evidence gathered and considered.
- A description of both disputed and undisputed material facts, and why a material fact is disputed.

The Investigation Report will be provided to the Decision-Maker who may or may not be the Investigator and/or the Director. In some instances, the Investigator may also serve as the Decision-Maker. In other instances, the Decision-Maker may be an external professional or another University official with sufficient training and expertise.

21. Final Determination

The Decision-Maker will review the Investigation Report, all appendices, and the Investigation file. If the record is incomplete, the Decision-Maker may direct a re-opening of the Investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Parties or any Witnesses, if needed.

The Decision-Maker will then apply the Preponderance of the Evidence standard to make a Final Determination on each of the allegations, whether the alleged conduct constitutes a Policy Violation, and, if applicable, any resultant Sanctions, and/or Remedies.

The Final Determination process will be completed within ten (10) Working Days of when the Decision-Maker received the Investigation Report or when the report is completed. This timeline can vary based on a number of factors and variables. The Parties will be notified of any delays and extensions by the Decision-Maker.

22. Notice of Investigation Outcome

The Decision-Maker will prepare a Notice of Investigation Outcome (NOIO) providing the Final Determination, at the conclusion of the Final Determination process. The NOIO will be shared with the Parties simultaneously along with the final Investigation Report, within five (5) Working Days of when Final Determination concludes. The NOIO and final Investigation Report will be emailed to the Parties' University-issued email account, and a designated email account, if applicable. Once emailed, the outcome notification is presumptively delivered.

The final Investigation Report will include:

- A summary of the allegation(s);
- A summary of the Investigation process;
- An explanation of the Preponderance of the Evidence standard;
- A description of the evidence reviewed and considered;
- An analysis of the evidence;
- Relevant credibility assessments;
- Findings of fact; and
- Relevant exhibits and evidence attached to the report.

The NOIO will include:

- A summary of the allegation(s);
- A summary of the investigative process;
- An explanation that the Preponderance of the Evidence standard was used;
- A summary of the Findings of fact;
- A determination about whether the alleged conduct violated the Anti-DHR Policy;
- Any Sanctions issued which the University is permitted to share according to state or federal law;
- Any Remedies offered to the Complainant, to the extent that the University is permitted to share such information under state or federal law (unless the Remedies directly relate to the Respondent, this would not be shared with the Respondent); and

- A notice of Parties' equal rights to appeal under the Anti-DHR Procedures, including the grounds for appeal, steps for appealing, and timeline for the appeal process.

23. Sanctions and Remedies

A. Sanctions

Within five (5) Working Days of the conclusion of the Final Determination process, if a Policy Violation was found, the Decision-Maker will impose Sanctions on a Respondent determined to have violated the Policy. Conduct that does not violate the Policy may be referred to the appropriate University office for review and determination as to whether corrective action is warranted.

Factors considered by the Decision-Maker when determining a Sanction or responsive action may include, but are not limited to:

- The nature, severity of and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegation(s) involving similar conduct
- The need for Sanctions/responsive actions to bring an end to the Policy Violation
- The need for Sanctions/responsive actions to prevent the future recurrence of the Policy Violation
- The need to remedy the effects of the Policy Violation on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by the Decision-Maker(s)

The Sanctions will be implemented as soon as feasible, either upon the outcome of any appeal, or the expiration of the time to appeal when no appeal has been made.

The Sanctions described in the Anti-DHR Procedures are not exclusive of, and may be in addition to, other actions taken or Sanctions imposed by external authorities.

Sanctions the Decision-Makes may put in place include but are not limited to the following:

For Students:

- Disciplinary warning – verbal or written
- Required training or education
- Disciplinary probation
- Educational, interventional or restorative requirements
- Restricted access to University facilities or events
- Imposition or continuation of a no-contact order
- Suspension from education program or campus access (limited time or indefinite)
- Expulsion

- Withholding of degree or delayed awarding of a degree if enrolled in a University degree program
- Dismissal (expulsion)
- Revocation of degree
- Organizational Sanctions: Deactivation, loss of recognition or loss of some or all privileges for a specified period of time
- In addition to or in place of the above Sanctions, the University may assign any other Sanctions as deemed appropriate.

For Employees:

- Disciplinary warning- verbal or written
- Required training or education
- Performance Improvement Plan
- Disciplinary probation
- Educational, interventional or restorative requirements
- Restricted access to University facilities or events
- Imposition or continuation of a no-contact order
- Loss of pay increase
- Loss of oversight or supervisory responsibilities
- Suspension, reduction, or loss of compensation
- Demotion
- Termination of employment, contract, appointment, and/or tenure
- Other Actions: In addition to or in place of the above Sanctions, the University may assign any other Sanctions as deemed appropriate.

B. Remedies

In addition to any other Sanction (except where the Sanction is expulsion), the Decision-Maker may require any Respondent determined to be responsible for a Policy Violation to receive appropriate education and/or training related to DHR Conduct violation at issue.

Following the conclusion of the Formal Resolution process, and in addition to any Sanctions implemented or Informal Resolution terms, the Office or designee may implement additional long-term Remedies or actions with respect to the Parties and/or the campus community that are intended to prevent a recurrence of the Policy Violation and remedy the effects.

These Remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Alteration of work arrangements for employees
- Campus safety measures
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the Parties

- Implementation of adjustments to academic deadlines, class schedules, etc.

At the discretion of the Office, certain long-term Supportive Measures may also be provided to the Parties even if no Policy Violation is found.

When no Policy Violation is found, the Office or designee will address any Remedies owed by the University to the Respondent to ensure no effective denial of educational access.

The University will maintain the Privacy of any long-term Remedies/ actions/ measures, provided Privacy does not impair the University's ability to provide these services.

24. Appeal of Determination

Any Party may appeal by identifying one or more grounds for appeal. All requests for appeal should be submitted in writing to the Office within five (5) Working Days of the delivery of the Notice of Investigation Outcome. The request for appeal should identify which of the four (4) grounds are being used to justify the appeal.

A. Grounds for Appeal:

The grounds for appeals are limited to the following:

1. Procedural irregularity that would change the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility was made, and that likely would change the outcome;
3. The Director or designee, Investigator, and/or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome;
4. The Sanction(s) imposed is substantially disproportionate to the severity of the violation; or

B. Outcome Appeal Officer:

The Office or designee will forward the request for appeal to the Outcome Appeal Officer for determination. The Office or designee will also notify the other Party (the non-Appealing Party) that an appeal has been filed.

The Outcome Appeal Officer will be an individual who has not been previously involved in the Complaint resolution process for the Complaint. The University President or designee will act as the Outcome Appeal Officer for all appeals of outcome. If the University President has previously acted administratively on the Complaint, including as the Dismissal Appeal Officer, the University will designate an alternate to be the Outcome Appeal Officer. In addition, an alternate will be designated when extenuating circumstances arise or when there is a conflict of interest.

C. Review of Appeal:

The request for appeal will be reviewed by the Outcome Appeal Officer to determine

if the request meets the grounds for appeal. This is not a review of the merits of the appeal. The Outcome Appeal Officer will determine, at this stage, whether the request provides sufficient information that meets the grounds, and is timely filed.

If the request for appeal does not provide information that meets the grounds, the request will be denied by the Outcome Appeal Officer and the Parties (and their Advisors, if applicable) will be simultaneously notified in writing of the denial and the rationale.

If the request for appeal meets the grounds for appeal, then the Outcome Appeal Officer will notify all Parties (and their Advisors, if applicable), and the Office. The Outcome Appeal Officer will also invite the non-appealing Party to respond to the appeal. The non-appealing Party's response must be submitted within three (3) Working Days of the delivery of the Outcome Appeal Officer's notification.

If a procedural irregularity is alleged, the Outcome Appeal Officer can seek a written response from the individual alleged to have committed the irregularity. The response must be submitted within three (3) Working Days of the delivery of the Outcome Appeal Officer's request.

The non-appealing Party may also choose to raise a new ground for appeal at this time. This counter appeal will be treated in the same manner as the original appeal, including the three (3) Work Days to submit a response to the counter appeal. Neither Party may submit any new appeals after this stage.

The Outcome Appeal Officer has ten (10) Working Days, after the receipt of all responses, to review and decide on the appeal.

The Outcome Appeal Officer has discretion to extend the timeline of the appeal process for good cause or for any reasons deemed to be legitimate by the University. This includes timelines for filing an appeal and for the Outcome Appeal Officer to respond to the appeal. The Outcome Appeal Officer will notify the Parties and the Office of any extensions granted for any portion of the appeal process.

D. Appeal Considerations:

Appeals are confined to a review of the written documentation or record of the original determination. The Outcome Appeal Officer may consult with the Office on questions of procedure or rationale for clarification, as needed. Documentation of all such consultation will be maintained.

Decisions on appeal are to be deferential to the original decision, making changes to the Finding only when there is clear error and to the Sanction(s)/responsive action(s) only if there is a compelling justification to do so. An appeal is not an opportunity for the Outcome Appeal Officer to substitute their judgment for that of the original Decision-Maker(s) merely because they disagree with the Finding and/or Sanction(s). All decisions apply the Preponderance of the Evidence Standard.

E. Appeal Conclusion:

An appeal may be granted or denied only on the grounds identified by the appealing Party. The Outcome Appeal Officer shall not consider an outcome that was not expressly identified in the appeal.

For appeals granted based on new evidence, the matter should normally be remanded to the original Investigator(s) and/or Decision-Maker(s) for reconsideration. For appeals granted on other grounds, the matter may be remanded to the appropriate stage of the Formal Resolution process, at the discretion of the Office or, in limited circumstances, decided on appeal.

Once an appeal is decided, the outcome is final. Further appeals by that appealing Party are not permitted. When appeals result in no change to the Finding or Sanction(s), that decision is final. When an appeal results in a new Finding or Sanction(s), that Finding or Sanction(s) can be appealed one final time on the grounds identified above.

In rare cases of bias, where a procedural or substantive error cannot be repaired by the original Decision-Maker, the appeal may order a new final determination process to be completed by a new Decision-Maker. The results of this new process can be appealed one final time on the grounds identified above.

In certain cases where the appeal results in the Respondent's reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status.

F. Notice of Appeal Outcome:

A Notice of Appeal Outcome will be sent to all Parties simultaneously via email to the Parties' University-issued email account, and designated personal email account (if any). The Notice of Appeal Outcome will specify the Finding on each ground for appeal, any specific instructions for remand or reconsideration, any Sanction(s) that may result which the University is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent the University is permitted to share under federal or state law. Once emailed, the Notice of Appeal Outcome will be presumptively delivered.

G. Sanctions Status During Appeal:

Any Sanctions imposed as a result of the Final Determination are stayed (i.e., not implemented) during the appeal process. Supportive Measures may be maintained or reinstated until the appeal concludes.

If any of the Sanctions are to be implemented immediately post-Final-Determination, but pre-appeal, then emergency removal procedures (detailed above) for a "show-cause" meeting on the justification for doing so must be permitted within two (2) Working Days of implementation.

The University may still place holds on official transcripts, diplomas, graduations and course registration pending the outcome of an appeal when the original

Sanctions included separation.

25. Withdrawal or Resignation Before Complaint Is Resolved

A. Students

Should a Student Respondent decide to not participate in the Formal Resolution process, the process proceeds absent their participation to a reasonable conclusion. If a Student Respondent permanently withdraws from the University, the Formal Resolution process may continue, or the Office or designee may exercise their discretion to dismiss the Complaint, as the University no longer has disciplinary jurisdiction over the withdrawn Student Respondent.

If the Complaint is dismissed, the University may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged DHR conduct. The University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the DHR Conduct.

The Student Respondent who withdraws or leaves while the process is pending may not return to the University until the Complaint is resolved and any Sanctions imposed are satisfied. The University may place a hold on a Student Respondent's transcript or place a notation on a Student Respondent's transcript that a disciplinary matter is pending. The Student Respondent may also be restricted from accessing University property and/or events.

If the Student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the Formal Resolution process may continue remotely. If found to have committed a Policy Violation, that Student is not permitted to return to the University unless and until all Sanctions, if any, have been satisfied.

B. Employees

Should an Employee Respondent decide not to participate in the Formal Resolution process, the process proceeds absent their participation to a reasonable resolution. If the Employee Respondent resign with unresolved allegations pending, the Formal Resolution process may continue, or the Office or designee may exercise their discretion to dismiss the Complaint, as the University no longer has disciplinary jurisdiction over the resigned Employee Respondent.

If the Complaint is dismissed, the University may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged DHR conduct. The University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the DHR Conduct.

When an Employee resigns and the Complaint is dismissed, the Employee may not return to the University. Human Resources, the Registrar, and Admissions will be notified, and it will be noted that the Employee is not eligible for rehire or academic admission with the University. The records retained by the Office will reflect that status.

26. Failure to Comply with Sanctions, Responsive Actions, Corrective Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned Sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the Decision-Maker, the Outcome Appeal Officer, or the Informal Resolution agreement.

Failure to abide by the Sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect or any other reason, may result in additional Sanction(s)/action(s), including suspension, expulsion, and/or termination from the University, and may be

noted on a Student's official transcript, when applicable.

A suspension imposed for non-compliance with Sanctions will only be lifted when compliance is achieved to the satisfaction of the Office or designee.

Supervisors are expected to enforce the completion of Sanctions/responsive actions for Employees who report to them.

27. Recordkeeping

The University will maintain records of:

- Each Investigation undertaken under the Anti-DHR Procedures, including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- Any disciplinary Sanctions imposed on the Respondent;
- Any Remedies provided to the Complainant designed to restore or preserve equal access to the University's employment or educational program or activity;
- Any appeal and the result therefrom;
- Any Informal Resolution and the result therefrom;

The University will also maintain any and all records in accordance with state and federal laws.