



UNIVERSITY OF
SAN FRANCISCO

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INTERIM POLICY AND PROCEDURES

**NONDISCRIMINATION BASED ON SEX AND GENDER,
SEXUAL HARASSMENT,
AND SEXUAL MISCONDUCT
FOR ALL STUDENTS, EMPLOYEES, AND THIRD-PARTIES**

This Policy has been adapted with permission from the Association of Title IX Administration's 1P2P Model Policy to comply with the 2020 Department of Education Title IX Regulations effective August 14, 2020

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Introduction

Members of the University of San Francisco (hereinafter University) community, guests, and visitors have the right to be free from sex and gender-based harassment, and violence. The University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from such discrimination.

To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of our educational programs and activities, the University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of sex or gender, and for allegations of retaliation as it relates to this policy. Any person who believes they have been subjected to sex or gender-based discrimination, including sexual harassment (inclusive of sexual assault, dating and domestic violence, and stalking) is encouraged to report these incidents.

All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The University's mission is to create a culture that promotes learning in an environment in which students, faculty, staff, and visitors are expected to engage with one another with dignity, mindfulness, and mutual respect. This policy upholds the equal dignity of all members of our community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for those involved.

POLICY: Nondiscrimination Based on Sex and Gender, Sexual Harassment, and Sexual Misconduct

1. Glossary

- *Advisor* – a person chosen by a party, or appointed by the institution, to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Complainant* – an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on sex or gender; or retaliation for engaging in a protected activity.
- *Complaint (formal)* – a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on sex or gender or retaliation for engaging in a protected activity against a Respondent and requesting the University investigate the allegation.
- *Confidential Resource* – an employee who is not a Mandatory Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* – means a business day when the University is in normal operation.
- *Directly Related Evidence* – evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.

- *Education program or activity* – locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the alleged sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- *Final Determination* – a conclusion arrived at using the applicable standard of proof, [preponderance of the evidence], that the alleged conduct occurred and whether it did or did not violate policy.
- *Finding* – a conclusion arrived at using the applicable standard of proof, [preponderance of the evidence], that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Grievance Process* – a method of formal resolution designated by the University to address conduct that falls within the policies included below, and which complies with the requirements of Title IX regulations (34 CFR §106.45).
- *Grievance Process Pool* – includes any investigators, hearing officers, appeal officers, and advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Panel* – includes those who have decision-making and sanctioning authority within the University’s Formal Grievance Process.
- *Investigator* – the person or persons charged by the University with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandatory Reporter* – an employee of the University of San Francisco who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.¹
- *Notice* – an employee, student, or third party informs the Title IX Coordinator, or other Official with Authority, of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct outlined in this policy.
- *Official with Authority (OWA)* – an employee of the University explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf the University.
- *Parties* – includes the Complainant(s) and Respondent(s), collectively.

¹ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

- *Recipient* – a postsecondary education program that is a recipient of federal funding. USF is a recipient.
- *Relevant Evidence* – evidence that tends to prove or disprove an issue in the complaint.
- *Remedies* – post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University’s educational program.
- *Respondent* – an individual who has been reported to be the perpetrator of conduct that could constitute discrimination based on sex or gender, sexual harassment, other sexual misconduct defined by this policy; or retaliation for engaging in a protected activity related to this policy.
- *Resolution* – the result of an informal or Formal Grievance Process.
- *Sanction* – a consequence imposed by the University on a Respondent who is found to have violated this policy.
- *Sexual Harassment* – the umbrella category including offenses of sexual harassment, sexual assault, stalking, and dating and domestic violence.
- *Title IX Coordinator* – at least one official designated by the University of San Francisco to ensure compliance with Title IX and the Recipient’s Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* – refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

2. **Applicable Scope**

The core purpose of this policy is the prohibition of all forms of discrimination based on sex or gender. Sometimes, discrimination involves exclusion from, or different treatment in, activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment, or in the case of sex or gender-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual orientation, dating violence, or domestic violence. When an alleged violation of this anti-discrimination policy is reported, the allegations are subject to resolution using University of San Francisco’s grievance processes as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the USF community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University community. This community includes, but is not limited to, students², student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers.

² For the purpose of this policy, the University defines “student” as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University.

The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

3. Title IX Coordinator

The Title IX Coordinator oversees implementation of the recipient's policy on nondiscrimination based on sex or gender, sexual harassment, and sexual misconduct for all students, employees, and third-parties. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

4. Independence and Conflict-of-Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the University President [Lone Mountain Campus, Rossi Wing, 4th Floor, 2130 Fulton St. San Francisco, CA 94117; (415) 422-6762]. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the University President [Lone Mountain Campus, Rossi Wing, 4th Floor, 2130 Fulton St. San Francisco, CA 94117; (415) 422-6762]. Concerns of misconduct or discrimination committed by any other Title IX Team member should be raised with the Title IX Coordinator.

5. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Jess Varga

Title IX Coordinator
Office of the Dean of Students
2130 Fulton St., University Center, 5th Floor
(415) 422-4563
Email: jvarga@usfca.edu

The University has also classified all employees (with few exceptions) as Mandatory Reporters of any knowledge they have that a member of community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

Inquiries may be made externally to:

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

San Francisco Office
Office for Civil Rights
U.S. Department of Education
50 United Nations Plaza
Mail Box 1200, Room 1545
San Francisco, CA 94102
Telephone: 415-486-5555
FAX: 415-486-5570; TDD: 800-877-8339
Email: ocr.sanfrancisco@ed.gov

For complaints involving employees:
US Equal Employment Opportunity Commission
San Francisco Office
450 Golden Gate Ave.
San Francisco, CA 94102
Telephone: 800-669-4000

6. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

Notice of complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a complaint with, or give verbal notice, the Title IX Coordinator, Deputy Title IX Coordinator(s), or an Official With Authority (OWA). Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by the mail to the office address, listed for the Title IX Coordinator or any other official listed.
- 2) Report online, using the reporting form posted at <https://myusf.usfca.edu/title-ix>. Anonymous reports are accepted but can give rise to a need to investigate. The University tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the University respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should

not fear a loss of privacy by making a report that allows the University to discuss and/or provide supportive measures.

- 3) Contact the Department of Public Safety for emergency response: 415-422-2911, available 24 hours a day/7 days a week.
- 4) Report using the Whistleblower Hotline by calling 800-316-4315, or find further information at <https://myusf.usfca.edu/internal-audit/whistleblower-policy>. Reports will be vetted by General Counsel and appropriately forwarded to the Title IX Coordinator for review and response.

A Formal Complaint means a document submitted or signed by the Complainant, or signed by the Title IX Coordinator, alleging a policy violation by a Respondent and requesting that the University of San Francisco investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure it is filed correctly.

7. Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the University’s education program or activity, including measures designed to protect the safety of all parties or the University’s educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University will inform the Complainant, in writing, that they may file a formal complaint with the University either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University will maintain the privacy of the supportive measures, provided that privacy does not impact the University’s ability to provide the supportive measures. The University will act to ensure as minimal an academic/occupational impact on the parties is possible. The University will implement measures in a way that does not unreasonably burden the other party.

These measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program (for employees)
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid assistance
- Education to the institutional community or community subgroup(s) What does this mean?
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties, such as No Contact Orders (NCO)
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) letters/orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of No Contact Orders will be referred to the appropriate student or employee conduct processes for enforcement.

8. Emergency Removal

The University can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Dean of Students, or Human Resources, using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible to the parties.

Where the Respondent is an employee, existing provisions for interim action, as provided in University employment policies, may also be applicable.

9. Promptness

All allegations are acted upon promptly by the University once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in these procedures will be delayed, the University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

10. Privacy

Every effort is made by the University to preserve the privacy of reports.³ The University will not share the identity of any individual who has made a report or complaint of harassment,

³ For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means information related to a complaint will be shared with a limited number of University employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the recipient's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the University's FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy,

discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulation, 34 CFR §99; or as required by law; or to carry out the purposes of 34 CFR §106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

The University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including by not limited to: Office of the Dean of Students, Office for Student Conduct, Rights and Responsibilities, Human Resources (if an employee is a party or witness), Public Safety, General Counsel. Information will be shared as necessary with investigators, decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The recipient may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically below in this policy.

11. Jurisdiction of the University

This policy applies to the education programs and activities of the University of San Francisco, to conduct that takes place on the campus or on property owned or controlled by the University, at University-sponsored events, or in buildings owned or controlled by the University's recognized student organizations. The Respondent must be a member of the University's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the University's educational programs. The recipient may also extend jurisdiction to off-campus and/or online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest.

Regardless of where the conduct occurred, the University will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial University interest includes:

spouses, and others, with their patients, clients, parishioners, and spouse. The University has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see section 17.a. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others, or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the University.

If the Respondent is unknown, or is not a member of the University of San Francisco community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers, and to USF policies and procedures to which their employer has agreed to be bound.

When the Respondent is enrolled in, or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution. It may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

12. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the University will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of the notice/complaint.

13. Online Harassment and Misconduct

The policies of the University of San Francisco are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the University's education program and activities or use the University's networks, technology, or equipment.

Although the University may not control websites, social media, and other venues in which harassing communication are made, when such communications are reported to the university, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the University community.

14. Policy on Nondiscrimination Based on Sex and Gender

The University adheres to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education. This policy's scope is specific to discrimination as it relates to the following:⁴

- Sex;
- Gender;
- Gender expression;
- Gender identity;
- Pregnant or parenting status; and/or
- Anyone participating in any grievance process on campus, with the Equal Employment Opportunity Commission, or other human rights agencies.

The University does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of sex, gender, gender identity, gender expression, pregnant or parenting status, or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus, with the Equal Employment Opportunity Commissions, or other human rights agencies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the University community whose acts deny, deprive, or limit the educational, employment, residential, and/or social access, benefits, and/or opportunities of any member of the University community, guest, or visitor on the basis of that person's actual or perceived membership in the categories listed above is in violation of this University policy on nondiscrimination.

⁴ For policies on non-discrimination for other civil rights and protected classes, please see the HR Policies and Fogcutter Student Handbook.

When brought to the attention of the University, any such discrimination will be promptly and fairly addressed and remedied by the University according to the appropriate grievance process described within this policy.

15. Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. The University's harassment based on sex and gender policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under university policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of the university policy, though supportive measures will be offered to those impacted. All policies encompass actual and/or attempted offenses.

a. Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by the University policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

The University of San Francisco does not tolerate discriminatory harassment of any employee, student, visitor, or guest. The University will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.⁵ This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive **and** objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, the University may also impose sanctions on the Respondent through application of the grievance processes below.

The University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under this policy, but may be addressed through respectful conversation, remedial

⁵ This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: [Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students At Educational Recipients Investigative Guidance.](#)

actions, education, effective Alternate Resolution, and/or other informal resolution mechanisms.

These actions may include collaboration with Human Resources when it involves an employee, or the Office for Student Conduct, Rights and Responsibilities for students.

b. Sexual Harassment

The Department of Education’s Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of California regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

The University has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking as defined as:

Conduct on the basis of sex/gender or that is sexual that satisfies one or more of the following:

- 1) Quid Pro Quo:
 - a. an employee of the recipient,
 - b. conditions⁶ the provision of an aid, benefit, or service of the recipient,
 - c. on an individual’s participation in unwelcome sexual conduct;

- 2) Sexual Harassment:
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and,
 - e. objectively offensive,
 - f. that it effectively denies a person equal access to the university’s education program or activity.⁷

- 3) Sexual assault, defined as:
 - a. Sexual Offenses, Forcible:

⁶ Implicitly or explicitly

⁷ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances (“in the shoes of the Complainant”), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

- Any sexual act⁸ directed against another person⁹,
- without the consent of the Complainant,
- including instances in which the Complainant is incapable of giving consent¹⁰.

b. Sex Offenses, Non-forcible:

i. Incest:

1. Non-forcible sexual intercourse,
2. between persons who are related to each other,
3. within the degrees wherein marriage is prohibited by California law.

ii. Statutory Rape:

1. Non-forcible sexual intercourse,
2. with a person who is under the statutory age of consent of 18 years old.

4) Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,

⁸ A “sexual act” is specifically defined by federal regulations to include one or more of the following:

Forcible Rape:

- Penetration,
- no matter how slight,
- of the vagina or anus with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

Forcible Sodomy:

- Oral or anal sexual intercourse with another person,
- forcibly,
- and/or against that person’s will (non-consensually), or
- not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly,
- and/or against that person’s will (non-consensually),
- or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Forcible Fondling:

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly,
- and/or against that person’s will (non-consensually),
- or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

⁹ This would include having another person touch you sexually, forcibly, or without their consent.

¹⁰ The 2020 Title IX regulations require recipients to define sexual assault using the Clery Act, 20 U.S.C. 1092(f)(6)(A)(v) definition. The Clery Act defines “sexual assault” to mean an “offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigations/NIBRS.” As stated in the regulations, footnote 791, “The FBI UCR, in turn, consists of two crime reporting systems: the Summary Reporting System (SRS) and the National Incident-Based Reporting System (NIBRS)...The current Clery Act regulations, 34 CFR 668.46(a), direct recipients to look to the SRS for a definition of rape and to NIBRS for a definition of fondling, statutory rape, and incest as the offenses fall under “sexual assault.” The FBI has announced it will retire the SRS and transition to using only the NIBRS in January 2021...NIBRS’s forcible and nonforcible sex offenses consist of: Rape, sodomy, and sexual assault with an object (as well as fondling, statutory rape, and incest). Thus, reference to the Clery Act will continue to cover the same range of sex offenses under the FBI UCR regardless of whether or when the FBI phases out the SRS.”

- c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition –
 - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - iii. Dating violence does not include acts covered under the definition of domestic violence.
- 5) Domestic Violence, defined as:
- a. Violence,
 - b. On the basis of sex,
 - c. Committed by a current or former spouse or intimate partner of the Complainant,
 - d. By a person with whom the Complainant shares a child in common, or
 - e. By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
 - f. By a person similarly situated to a spouse of the Complainant under the domestic of family violence laws of California, or
 - g. By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence in California.
 - i. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.
- 6) Stalking, defined as:
- a. Engaging in a course of conduct,
 - b. on the basis of sex,
 - c. directed at a specific person, that
 - i. Would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. suffer substantial emotional distress.
- For purposes of this definitions
- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
 - (iii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

The University reserves the right to impose any level of sanction. Any student Respondent found responsible for violating this policy will be subject to sanction(s) ranging from a warning to expulsion, depending on the severity of the incident, and taking into account any previous Student Conduct Code violations. Psychological and/or behavioral counseling may be required for students found responsible for a violation of this policy.

Any employee found responsible for violating this policy will be subject to sanction(s) ranging from warning to loss of employment, depending on the severity of the incident and taking into account any previous applicable action taken by Human Resources.

In considering an appropriate sanction(s), decision-makers shall consider all of the evidence presented during the investigation and hearing, and may also consider the following:

- Impact statements provided by the Complainant and Respondent - which will not be a part of the determination of whether this policy was violated.
- What is reasonable, appropriate, and fair given the facts of the case and the determination of responsibility, including, but not limited to:
 - What factors contributed to the absence of consent (e.g., coercion, force, incapacitation)?
 - What motivated the Respondent's behavior (e.g., negligence, intentional, reckless, biased)?
 - What is the impact on the Complainant?
 - What is the impact on others and the USF community?
 - What is the Respondent's disciplinary history?
 - Are the sanctions consistent with those imposed for similar offenses at the University?
 - Are there any aggravating or mitigating circumstances?

c. **Force, Coercion, Consent, and Incapacitation**¹¹

As used in the offenses above, the following definitions and understanding apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or product consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

¹¹ The California definition of consent is "Affirmative consent." Affirmative consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that [they] ha[ve] the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be confirmed by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM¹² or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be a part of the kink and thus consensual, so the University’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

¹² Bondage, discipline/dominance, submission/sadism, and masochism.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reasons, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

d. Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, the University additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant's actual or perceived membership of sex, gender, gender identity, and/or gender expression.

- 1) Sexual Exploitation, defined as: Taking non-consensual or abusive sexual advantage of another person for their own benefit or the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person observed).
- Invasion of sexual privacy.
- Taking pictures, video, or audio recording of another in a sexual act, or in any other activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closer and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography.
- Prostituting another person.
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection.

- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of making that person vulnerable to non-consensual sexual activity.
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections.
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity.
- Knowingly soliciting a minor for sexual activity.
- Engaging in sex trafficking.
- Creating, possession, or dissemination of child pornography.

Violation of any other University policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities. The University has policies for these other civil rights offenses (those not based on sex or gender) and can be found in the Fogcutter Student Handbook or Human Resources policies.

Sanctions for the above-listed Civil Rights Offenses range from warning through expulsion or termination.

16. Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated by either Human Resources (for employees) or the Office for Student Conduct, Rights and Responsibilities (for students). The University is prepared to take appropriate steps to protect individuals who fear they may be subjected to retaliation.

It is prohibited for the University or any member of the University's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Allegations against an individual for code of conduct, or employment policy, violations that do not involve sex discrimination or sexual harassment but arise out of the same facts of circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

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

17. Mandated Reporting

All University of San Francisco employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandatory Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at the University for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors at Counseling and Psychological Services (CAPS), for students
- Licensed professional counselors through the Employee Assistance Program, for employees
- Clergy members acting within the scope of their ordination, may be found through University Ministry
- Off-campus:
 - Licensed professional counselors and other medical providers
 - Local rape and sexual assault crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger, or abuse of a minor/elder/person with a disability, or when required to disclose by law or court order.

University employees who are confidential will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

b. Mandatory Reporters and Formal Notice/Complaints

All employees of the University of San Francisco (including student employees such as Resident Advisors), with the exception of those who are designated as Confidential Resources, are Mandatory Reporters and must promptly share with the Title IX Coordinator all known details, including names, of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandatory Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or to seek a specific response from the University.

Supportive measures may be offered as the result of such disclosures without formal University action.

Failure of a Mandatory Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply.

Finally, it is important to clarify that a Mandatory Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

18. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state and federal law.

The Title IX Coordinator has ultimate discretion over whether the University proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decisions should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the University to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

Note that the University's ability to remedy and respond to notice may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the University will offer informal resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the University, and to have the incidents investigated and properly resolved through these procedures.

19. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the University must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University will make every effort available that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

20. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline.

21. Amnesty for Complainants and Witnesses

The University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to University officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the University maintains a policy of offering parties and witnesses amnesty for minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to a Respondent with respect to a Complainant.

22. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA¹³-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and

¹³ VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to the Department of Public Safety regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: Public Safety staff, student conduct staff, local police, coaches, Athletic Director, Student Housing and Residential Education staff, Human Resources staff, Title IX Coordinator and Deputy Coordinator(s), and any other official with significant responsibility for student and campus activities.

23. Preservation of Evidence

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and is particularly time-sensitive. The University will inform the Complainant of the importance of preserving evidence by taking the following actions:

1. Seek forensic medical assistance at the Zuckerberg San Francisco General Hospital, ideally within 120 hours of the incident (sooner is better).
2. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
6. Seeking medical treatment can be essential if it is not for the purposes of collecting forensic evidence.

During the initial meeting between the Complainant and the Title IX Coordinator (or person conducting intake), the importance of taking these actions will be reiterated, if timely.

INTERIM RESOLUTION PROCESS FOR ALLEGED VIOLATION OF THE POLICY ON NONDISCRIMINATION BASED ON SEX AND GENDER, SEXUAL HARASSMENT, AND SEXUAL MISCONDUCT

1. Overview

The University will act on any formal or informal notice/complaint of violation of this policy on Nondiscrimination Based on Sex and Gender, Sexual Harassment, and Sexual Misconduct (“the Policy”) that is received by the Title IX Coordinator¹⁴ or any other Official with Authority by applying these procedures.

The procedures below apply to all allegations of harassment and discrimination on the basis of sex and gender involving students, staff, administrators, or faculty members. A set of technical dismissal requirements within the Title IX regulations may apply as described below, but when a technical dismissal under the Title IX allegations is required, any remaining allegations will proceed using these same grievance procedures, clarifying which policies above are applicable. While the effect of the Title IX regulations can be confusing, these grievance procedures apply to all policies above.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures elaborated in the Fogcutter Student Handbook, and faculty and staff handbooks.

2. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the University initiates a prompt initial assessment to determine the next steps the University needs to take.

The University will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
- 2) An informal resolution (upon submission of a formal complaint); and/or
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

The University uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, the University will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

¹⁴ Anywhere this procedure indicates “Title IX Coordinator,” the University may substitute a trained designee.

3. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator¹⁵ engages in an initial assessment, which is typically one to five business days. The steps in an initial assessment may include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assess the request, and implement measures accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation the best or is available, and may seek to determine if the Respondent is also willing to engage in informal resolution.
 - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
 - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate issue, based on the nature of the complaint.
 - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, and will refer the matter accordingly. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX, and does not limit the University’s authority to address a complaint with an appropriate process and remedies.

¹⁵ If circumstances require, the President or Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator, or the Coordinator be otherwise unavailable or unable to fulfill their duties.

a. Violence Risk Assessment

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by CMBIT as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complaint;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try and resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer Recipient about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass Order/Persona-non-grata is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, and student conduct officers. A VRA authorized by the Title IX Coordinator should occur in collaboration with CMBIT. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in an allegation of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in the state of California), nor is it a psychological or mental health assessment. A VRA assesses the risk of actionably violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

More about the University's process for VRA can be found in Appendix B

b. Dismissal (Mandatory and Discretionary)¹⁶

The following are the technical set of dismissal requirements for obligation of the University to pursue a case with Title IX designation.

¹⁶ These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a complainant is not participating or attempting to participate in the education program or activity of the recipient¹⁷.

The University may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the University; or
- 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

The dismissal decision is appealable by any party under the procedures for appeal below.

4. Counterclaims

The University is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, made for purposes of retaliation, instead. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as an underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

¹⁷ Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable.

5. Right to an Advisor

The parties may each have an Advisor¹⁸ of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available¹⁹.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing decision-makers(s).

a. **Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the University community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the University, the Advisor will be trained by the University and be familiar with the University's resolution process.

If the parties choose an Advisor from outside the pool of those identified by the University, the Advisor may not have been trained by the University and may not be familiar with the University policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

b. **Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The University cannot guarantee equal Advisory rights, meaning 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.

c. **Advisors in Hearings/University-Appointed Advisor**

Under U.S. Department of Education regulations under Title IX, a form of indirect questioning is required during the hearing, but must be conducted by the parties' Advisors. The parties are not

¹⁸ This could include an attorney, advocate, or support person. The law permits **one** Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally).

¹⁹ "Available" means the party cannot insist on an Advisory who simply does not have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, the University will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-makers during the hearing.

d. Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and the University's policies and procedures.

e. Advisor Violations of University Policy

All Advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The Advisor may not make a presentation or represent their advisee²⁰ during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-makers except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the 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 resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

f. Sharing Information with the Advisor

The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The University also provides a consent form that authorizes the University to share such information directly with their Advisor. The parties must either complete and submit this form

²⁰ Subject to state law provisions or University policy above.

to the Title IX Coordinator, or provide similar documentation demonstrating consent to a release of information to the Advisor before the University is able to share records with an Advisor.

The University will always communicate directly with the parties. The University will make every effort to include an Advisor in communication when specifically requested by a party, however, no guarantee can be made to do so and the party bears the ultimate responsibility to share all communication and information directly with their Advisor. Failure of the University to carbon copy an Advisor on any communication, even when requested to do so, is not sufficient to meet a ground for appeal in and of itself.

g. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. 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.

h. Expectations of an Advisor

The University generally expects an Advisor to adjust their schedule to allow them to attend the University's meetings when planned, but may change scheduled meetings 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 attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

i. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

j. Assistance in Securing an Advisor

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>]

Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>)

6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with University policy. Although 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, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below. The University encourages parties to discuss any sharing of information with their Advisors before doing so.

a. Informal Resolution

Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- When the parties agree to resolve the matter through an alternate resolution mechanism as described below, (including mediation, restorative practices, etc.), usually before a formal investigation takes place, see discussion in b., below.
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation); see discussion c., below.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

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.

b. Alternate Resolution Mechanism

Alternate Resolution is an informal mechanism, such as mediation or restorative practices, by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of an Alternate Resolution mechanism.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of allegation;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary action. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

c. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of the University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

d. Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University. Negotiated Resolutions are not appealable.

7. Grievance Process Pool

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees.

a. Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the Title IX Coordinator:

- To provide intake of an initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in Informal Resolution or Alternate Resolution – if appropriately trained in resolution modalities (e.g., mediation, restorative practices)
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Hearing Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker

b. Pool Member Appointment

The Title IX Coordinator, in consultation with Human Resources and supervisors, appoints the Pool, which acts with independent and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the University can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. The process of role assignment may be the result of particular skills, aptitudes, or talents identified in the members of the Pool that make them best suited to particular roles.

c. Pool Member Training

The Pool members receive annual training based on their respective roles. This training includes, but is not limited to:

- The scope of the University's discrimination and harassment based on sex and gender policy and procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promotes accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the university with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

Specific training is also provided for Appeal Decision-makers, intake personnel, University-provided Advisors), and Hearing Chairs. All Pool members are required to attend these training sessions annually. The materials used to train all members of the Pool are publicly posted on the USF Title IX website: www.usfaca.edu/title-ix

d. Pool Membership

The Pool includes University employees from different areas of campus. There are specific members of the Pool who have further training and designation to serve as the Chair of live hearings.

8. Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is informed the NOIA will be delivered to the Respondent.

The NOIA will include:

- A summary of all allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the University’s policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the University’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to the University’s VAWA Brochure,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the parties’ University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

9. Resolution Timeline

The University will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

10. Appointment of Investigator(s)

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of two investigators), usually within two (2) business days of determining that an investigation should proceed.

11. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member 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 Title IX Coordinator, concerns should be raised with Vice President for Student Life for students and Human Resources for employees.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports 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.

The University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

12. Investigation Timeline

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

13. Delays in the Investigation Process and Interactions with Law Enforcement

The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disability or health conditions.

The University will communicate in writing the anticipated duration of the delay and reason to the parties, and provide the parties with status updates if necessary. The University will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the University will implement supportive measures as deemed appropriate.

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

14. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

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

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, 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 all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Amend the NOIA with any additional or dismissed allegations, if necessary
 - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews a necessary

- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without reasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses who information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person received it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) may elect to respond in writing to the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator(s) share the report with the Title IX Coordinator and/or legal counsel for their review and feedback
- The Investigator(s) will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that is not included in the report

15. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of the University are expected to cooperate with and participate in the University's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s)

determine that timeliness or efficiency dictate a need for remote interviewing. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

16. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all parties must be made aware of and consent to²¹ audio and/or video recording.

17. Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions or evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

18. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation – when the final investigation report is transmitted to the parties and the Decision-maker(s) – unless all parties and Decision-maker(s) agree to an expedited timeline.

The Title IX Coordinator will select appropriate Decision-maker(s) from the Pool depending on whether the Respondent is an employee or a student. Allegations involving student-employees in the context of their employment will be assessed for the appropriate make-up of the Pool to be the Decision-maker(s).

19. Hearing Decision-maker Composition

The University will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator. The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

²¹ Consent of the interviewer and interviewee is required in "all-party" (otherwise known as "dual-party") recording states, such as California.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter, but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

20. Evidentiary Considerations in the Hearing

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming the University uses a progressive discipline system. This information is only considered at the sanction stage of the process, and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker(s) render a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

21. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received-in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.

- Hearings will occur with the parties located in separate rooms (when in-person) using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. If there is a request made and agreed to by both parties to be in the same room for the hearing, this request will be assessed by the Title IX Coordinator.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Chair or Title IX Coordinator may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already²².
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker(s) will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal).

22. Alternate Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person would let the Title IX

²² The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

Coordinator know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

23. Pre-Hearing Preparation

The Chair or hearing facilitator after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least ten (10) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than five (5) business days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses and Advisors at least ten (10) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or the hearing and will be exchanged between each party by the Chair.

24. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and their Advisors to invite them to submit the questions or topics they (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their evidence ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator, or ask either or both to attend pre-hearing meetings.

25. Hearing Procedures

At the hearing, the Decision-maker(s) have the authority to hear and make determinations on all allegations of discrimination based on sex and gender, sexual harassment, sexual misconduct, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Nondiscrimination Based on Sex and Gender, Sexual Harassment, and Sexual Misconduct.

Participants at the hearing will include the Chair, any additional panelists including any alternates, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator (if not the hearing facilitator), and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and the witnesses will then be excused.

26. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearing pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

27. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

The Chair and/or hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator, or the Title IX Coordinator themselves. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

28. Investigator Presents the Final Investigation Report

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that to be disregarded.

29. Testimony and Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally (other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider it (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

30. Refusal to Submit to Cross-Examination and Inferences

Cross-examination is an all or nothing proposition, meaning that if any question is refused, no statements of that party or witness are admissible. Only if a party or witness is willing to submit to cross-examination, and answers all questions, will their statements prior to or at the hearing be fully admissible. If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker(s) must disregard all statements. Evidence provided that is something other than a statement by the party or witness may be considered.

Whether a party or witness does or does not answer questions from the Decision-maker(s), their statements will be admissible as long as they are willing to submit to cross-examination questions, even if they are not asked cross examination questions. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If allegations of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different Advisor. If a recipient-provided Advisor refuses to comply with the rules of decorum, the University may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

31. Recording Hearings

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

32. Deliberation, Decision-making, and Standard of Proof

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation in part or whole by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history provided by the Title IX Coordinator and will recommend the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions or recommendations.

The report must be submitted to the Title IX Coordinator within two (2) business days of the end of the deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

33. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare the Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisor within 3 business days of receiving the Decision-maker(s)' deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University records, or emailed to the parties' University-issued email or otherwise approved account. Once mailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the University from the receipt of the misconduct report to the determination, including any and all notification to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University is permitted to share such information under state and federal law; any sanctions issued which the University is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the University's educational or employment program or activity, to the extent the University is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly related to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the University to be final, any changes that occur prior to the finalization, and the relevant procedures and bases for any available appeal options.

34. Statement of the Rights of the Parties (see Appendix A)

35. Sanctions

Factors considered when determining a sanction/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 allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation 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 is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

a. Student Sanctions

The following are the usual sanctions²³ that may be imposed upon students or organizations singly or in combination²⁴:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either University-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Disciplinary Probation*: Imposed for a period of time to allow students to reflect upon their choices and behavior and to demonstrate the ability to abide by community standards and expectations. It also serves as formal notification that the activity in question is unacceptable and if continued or other inappropriate behavior follows, more severe action may be taken. Additional violations of the Student Conduct Code while on Disciplinary Probation will result in higher level sanctioning. Disciplinary Probation may impact a student's eligibility to participate in University-sponsored programs or services, or to serve in leadership positions.
- *Fines*: Monetary fines may be imposed on students or student organizations for violations of the Student Conduct Code.
- *Loss of Privileges*: Denial of participation in designated privileges and extracurricular activities for a specified period of time. Violation of any conditions in the loss of privileges and exclusion from activities sanction or violations of other policies or campus regulations during the sanction period may be cause for further conduct action, ordinarily in the form of suspension or expulsion.
- *Notifications*: Notification of violations will be made to appropriate officials if the respondent is involved in co-curricular activities (e.g., ROTC, student leadership) or intercollegiate athletics. A violation may result in the loss of the privilege of participating in co-curricular activities if the supervising official deems it appropriate. Parental notifications may also be made to encourage support to the student in successful completion of sanctions.
- *Restitution*: Compensation for damage to or misappropriation of University property may be imposed either exclusively or in combination with other conduct action. Reimbursement may also be imposed for damage to the property of or injury to another person as a result of a violation of the policy. Such reimbursement may take the form of monetary payment or appropriate service to repair or otherwise compensate for damages. Restitution may be imposed on any student acting alone, or through group or concerted activities, or on any campus organization that participates in causing the damages or expenses.
- *Exclusion*: Exclusion of a student from specified areas of the campus or campus activities. Violation of the conditions of exclusion or of University policies or campus regulations during the period of exclusion may be cause for further conduct action, which ordinarily is in the form of University suspension.
- *University Housing Relocation*: Relocation of a student in University-operated housing may occur when the student has demonstrated that they are unable to be successful in their

²³ University policies on transcript notation will apply to these proceedings.

²⁴ Subject to University's Organizational Code of Conduct.

current location by virtue of repeated violations of the Student Conduct Code and/or Residence Life policies.

- *University Housing Probation:* Imposed for a period of time to allow residential students to reflect upon their choices and behavior and to demonstrate the ability to abide by student housing community standards and expectations. It also serves as formal notification that the student is not in good standing with regard to their on-campus housing. Housing probation is typically assigned in situations where behavior has been detrimental to the on-campus residential community. Additional residentially-based violations of the Student Conduct Code while on Housing Probation will result in an evaluation to determine if continued on-campus living is in the best interests of the student and the on-campus residential community. Housing Probation may impact a student's eligibility to participate in the housing lottery process, University-sponsored programs or services, or to serve in leadership positions.
- *University Housing Pre-Removal:* When a student has demonstrated a pattern of behavior that is contrary to the behavioral expectations of community living, they will be given formal notice that any further violation for which they are found responsible will result in immediate residence hall expulsion.
- *University Housing Suspension:* Separation of the student from the residence halls for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- *University Housing Expulsion:* The student is removed and permanently banned from the residence halls.
- *University Probation:* Imposed for a minimum of one (1) academic year in serious cases (including but not limited to illegal drug use or distribution; making threats of, or actually performing physical or sexual violence; acting in a manner that endangers others) for students who repeatedly violate the Student Conduct Code, and for students returning to the University after suspension. University Probation serves as formal notification that the student is not in good standing with the University and that similar or more severe violations of the Student Conduct Code while on this status will result in suspension or expulsion from the University. University Probation will impact a student's eligibility to participate in University-sponsored programs or services, or to serve in leadership positions.
- *University Suspension:* Separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- *University Expulsion:* Permanent separation of the student from the University.
- *Ineligibility for Graduation:* A graduating student involved with alleged policy violations prior to graduation may not graduate, participate in graduation ceremonies, or receive a diploma until the matter has been processed and sanctions completed.
- *Revocation of Admission and/or Degree:* Admission to the University or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the degree, or for other serious violations committed by a student prior to matriculation or graduation.
- *Withholding Degree:* The University may withhold the diploma of students who have been alleged with a violation of University policy even though they have completed all academic requirements. In circumstances where expulsion is a possibility for conduct violations, the diploma may be withheld until the allegations have been resolved and/or sanctions completed.

- *Other Actions:* In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

b. Employee Sanctions/Responsive Actions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- *Warning – verbal or written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Delay of tenure track progress*
- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions the University may assign any other responsive actions as deemed appropriate.

36. Withdrawal or Resignation While Allegations Pending

- a. Students: Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University, the resolution process ends, as the University no longer has disciplinary jurisdiction over the withdrawn student.

However, 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 alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University. Such exclusion applies to all campuses and additional locations of the University. Admissions will be notified that they cannot be readmitted. They may also be barred from University property and/or events.

If the student Respondent only withdraws or takes a leave of absence for a specified period of time (e.g., one semester), the resolution process may continue remotely and that student is not permitted to return to the University unless and until all sanctions have been satisfied.

- b. Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University no longer has disciplinary jurisdiction over the resigned employee.

However, the University will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the University, and the records retained by the Title IX Coordinator will reflect that status.

All University responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

37. Appeals

Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within three (3) business days of the delivery of the Notice of Outcome.

A three-member appeal panel chosen from the Pool will be designated by the Title IX Coordinator. No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

a. Grounds for Appeal

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a copy of the request with the approved grounds and will then be given three (3) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in three (3) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and share with the Appeal Panel. The Appeal Panel will render a decision in no more than three (3) business days, barring exigent circumstances.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state and federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' University-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

b. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours 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.

c. Appeal Considerations

- 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.
- Appeals are not intended to provide for a full re-hearing (do novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair/Decision-maker(s) may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is denied, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural error cannot be cured by the original Decision-maker(s) (as in a case of bias), the appeal may order a new hearing with a new Decision-maker(s).
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

38. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contract limitations between the parties

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

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator 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.

39. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Panel).

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 will be noted on a student's conduct record.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

40. Recordkeeping

The University will maintain for a period of at least seven (7) years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The University will make these training materials publicly available on the University of San Francisco website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to the University's education program or activity; and
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

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

41. Disabilities Accommodations in the Resolution Process

The University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University's resolution process.

Anyone needing such accommodations or support should contact Student Disability Services (for students) or Human Resources (for employees), who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

42. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing sexual harassment, sexual misconduct, discrimination based on sex and gender, and/or retaliation under Title IX and will reviewed and updated annually by the Title IX Coordinator, or as necessitated by law. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

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

This Policy and procedures are effective August 14, 2020.

APPENDIX A: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to University officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by University officials.
- The right to have University policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by University officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including local police, and the option(s) to be assisted by University authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by University public safety and/or other University officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a University-implemented no-contact order (when applicable) when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes

are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation accommodations
 - Visa/immigration resource referrals
 - Arranging to dissolve a housing contract and a pro-rated refund
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options.
- The right to have the University maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the University's ability to provide the supportive measures.
 - The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
 - The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
 - The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
 - The right not to have irrelevant prior sexual history or character admitted as evidence.
 - The right to know the relevant and directly related evidence obtained and to respond to that evidence.
 - The right to a fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
 - The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
 - The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.

- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the University is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.
- The right to a fundamentally fair resolution as defined in these procedures.

APPENDIX B: VIOLENCE RISK ASSESSMENT (VRA)

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, and/or other Case Management and Behavioral Intervention Team (CMBIT) members.

A VRA occurs in collaboration with CMBIT and must be understood as an on-going process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

1. an appraisal of **risk factors** that escalate the potential for violence;
2. a determination of **stabilizing influences** that reduce the risk of violence;
3. a contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence; and
4. the application of **intervention and management** approaches to reduce the risk of violence.

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the CMBIT. The CMBIT will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

The assessor will follow the process for conducting a violence risk assessment as outlined in the CMBIT manual and will rely on a consistent, research-based, reliable system that allows the for the operationalization of the risk levels.

Some examples of formalized approaches to the VRA process include: The NaBITA Risk Rubric,²⁵ The Structured Interview for Violence Risk Assessment (SIVRA-35),²⁶ The Extremist Risk Intervention Scale

²⁵ www.nabita.org/tools

²⁶ www.nabita.org/resources/assessment-tools/sivra-35/

(ERIS),²⁷ Looking Glass,²⁸ Workplace Assessment of Violence Risk (WAVR-21),²⁹ Historical Clinical Risk Management (HCR-20),³⁰ and MOSAIC.³¹

The VRA is conducted independently from the Title IX process, free from outcome pressure, but is informed by it. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The CMBIT or threat team's member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to health and/or safety of an individual or the community.

²⁷ www.nabita.org/resources/assessment-tools/eris/

²⁸ www.nabita.org/looking-glass

²⁹ www.wavr21.com

³⁰ hcr-20.com

³¹ www.mosaicmethod.com