



Sex Discrimination, Sexual Misconduct and Other Prohibited  
Conduct Grievance Procedures



Dear Adelphi Community,

Adelphi is a community committed to achieving diversity and inclusiveness, and to fostering a constructive environment where all our members benefit from learning and working together. Through the lens of this commitment, below is an excerpt from the Adelphi University policy on anti-discrimination, harassment and retaliation that clearly states our principles in this area:

*Discrimination, harassment and retaliation of any type will not be tolerated at Adelphi University. Upon notice, the University will act to: end the discrimination, harassment or retaliation; prevent its recurrence; and remedy the effects of the alleged conduct.*

This policy is more than just words—it is embedded in our culture. All members of our community are welcome and encouraged to be their authentic selves, and in turn we expect that this respect will be given to others.

Adelphi is a safe place to learn, work and grow as an individual, and we uphold each community member's right to a welcoming and supportive environment. Thank you for sharing in our commitment.

All the best,

A handwritten signature in black ink that reads "Christine M. Riordan". The signature is written in a cursive, flowing style.

Christine M. Riordan, President

Dear Members of the Adelphi Community,

Adelphi's commitment to a safe and welcoming environment is supported by this Policy and our commitment to investigate all concerns regarding discrimination, harassment, and any resulting retaliation. Please feel free to review the entire policy within.

To file a complaint, fill out the [online reporting form](#). For emergency assistance, contact the Department of Public Safety and Transportation at (516) 877-3511, or dial 5 from a campus phone.

Your complaint can be filed anonymously, however information provided may be shared with the person(s) accused. Although absolute confidentiality cannot be guaranteed in all cases, the University will treat the concerns of all complainants with sensitivity and respect, and maintain the privacy of all parties to the greatest extent possible.

Complaints are reviewed by the Executive Director of Labor Relations and Human Resources Operations and the Title IX Coordinator/Director of Equity and Compliance.

Sincerely,

Jane Fisher  
Executive Director of  
Labor Relations & HR Operations

Allison Vernace  
Title IX Coordinator, Director of Equity and  
Compliance

**Sex Discrimination, Sexual Misconduct and Other Prohibited  
Conduct Grievance Procedures  
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## I. Statement of Policy and Non-Discrimination

Adelphi University (the “University”) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment. The University is proud of its work and academic environment and strives to maintain a pleasant and collegial environment for employees, students, guests, and visitors, all of whom are expected to treat each other with courtesy, consideration, and professionalism. The University will not tolerate discrimination based on the protected status of an individual's race, creed, color, national origin, sex, gender identity, gender expression, age, marital status, disability, ethnicity, sexual orientation, predisposing genetic characteristics, religion, pregnancy, military status, veteran status, status as a victim of domestic violence, criminal conviction status, or any other basis protected by applicable local, state or federal laws.

The below policy is governed by Title IX of the Education Amendments of 1972 (Title IX), New York State Education Law 129-B, the Violence Against Women Act, the Clery Act and any other applicable local, state or federal law prohibiting discrimination based on protected status. Inquiries about Title IX may be referred to Adelphi's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

Title IX Coordinator  
Allison Vernace  
Levermore, Room 106  
One South Avenue  
Garden City, NY 11530  
P: 516-877-4819  
E: [titleix@adelphi.edu](mailto:titleix@adelphi.edu)

Assistant Title IX Coordinator  
Emily Whearty  
Levermore, Room 207  
One South Avenue  
Garden City, NY 11530  
P: 516-833-8019

The University's nondiscrimination policy and grievance procedures can be located at <https://www.adelphi.edu/title-ix/>

To report information about conduct that may constitute sexual misconduct or make a complaint of sex discrimination under Title IX, please submit using the online [Reporting Form](#).

Contact the Department of Public Safety and Transportation at (516) 877-3511 or dial 5 from a campus phone for emergency assistance.

## **II. Scope of Policy**

### **a. Who is Governed by this Policy**

This Policy applies to all Adelphi students and employees, as well as visitors involved in the University's academic, educational, recreational, and living programs, guests, and campers; applicants in the admissions process; and recipients and/or providers of Adelphi's programs or services.

The protections in this policy apply to the campus community regardless of race, creed, color, national origin, sex, gender identity, gender expression, age, marital status, disability, ethnicity, sexual orientation, predisposing genetic characteristics, religion, pregnancy, military status, veteran status, status as a victim of domestic violence or criminal conviction.

The role of universities is to encourage the free flow of thoughts and ideas essential to higher education. Nothing in this Policy shall be construed to impede protected rights, including first amendment, due process rights, and any other rights guaranteed by the U.S. Constitution

### **b. Who Can Report Under this Policy**

Anyone in the community can report whether or not the person reporting is the person alleged to be the victim of conduct that is prohibited by this policy. A report may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

### **c. What Locations Are Covered Under This Policy**

This Policy prohibits sex discrimination, sexual misconduct and retaliation that occurs:

- occur on Adelphi University's campuses,
- occur at off-campus University-sponsored events;
- campus centers or sites,
- are subject to the University's disciplinary authority; and
- off-campus incidents (including online conduct) that have an on-campus impact or affect members of the campus community.

## **III. Prohibited Conduct Definitions & Other Definitions**

As used below, conduct that is "based on sex" includes conduct that is based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity or expression, or sexual and reproductive health decisions.

## **IV. Prohibited Conduct**



**a. Sex Discrimination**

Discrimination based on sex, including, but not limited to, sex-based harassment.

Sex Discrimination includes actions that deprive someone of educational or employment access, benefits, or opportunities on the basis of sex.

**b. Sex- Based Harassment**

Sex-based harassment is a form of sex discrimination and includes the following forms of sexual harassment and harassment based on sex:

1. *Quid Pro Quo Harassment*

An employee, agent, or other person authorized by Adelphi to provide an aid, benefit, or service under the University’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;

2. *Hostile Environment Harassment*

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the recipient’s education program or activity;

3. *Sexual Assault*

Is any non-consensual sexual act, including:

- **Sexual Assault: Contact (Fondling)** is any sexual contact, including sexual touching for the purpose of sexual gratification of either party or degrading or abusing such person, without a person’s consent and/or by threat, intimidation, coercion, duress, violence or by causing a reasonable fear of

harm. Sexual touching includes contact under or over clothing with another person's private body parts, including the anus, breasts, buttocks, genitals, groin or inner thigh; touching another person anywhere with any of those body parts; making another person touch any of those body parts under or over clothing; or the emission of ejaculate on the clothing or body of another person.

- **Sexual Assault: Penetration** – is any form of vaginal, anal, or oral penetration or attempted penetration, however slight, by a penis, object, tongue, or finger without a person's consent.
- *Sexual Assault includes the crimes of incest or statutory rape.*

#### 4. *Dating Violence*

Violence committed by a person:

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

#### 5. *Domestic Violence*

Felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or

(D) Commits acts against a youth or adult victim who is protected from those acts under [New York Social Services Law Section 459-A](#);

#### 6. *Stalking*

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) fear for the person's safety or the safety of others; or

(B) suffer substantial emotional distress.

This Policy addresses stalking that is based on sex. All other stalking will be addressed under other applicable policies.

### **c. Sexual Misconduct**

Sexual misconduct is a broad term that encompasses a wide range of prohibited behaviors including: sexual harassment (including under NYSHRL and Title IX), sexual assault, sexual exploitation, dating violence, domestic violence, and stalking, as these terms are defined herein. The following definitions relate to prohibited conduct that violate this policy and the Adelphi University Code of Conduct, but do not fall under the definition of Title IX Sex-Based Discrimination or Title IX Sex-Based Harassment

- **Sexual Harassment**

Unwelcome conduct which is either of a sexual nature or which is directed at an individual because of that individual's sex. Conduct is considered unwelcome if the individual did not request or invite it and considered the conduct to be undesirable or offensive. This includes, but is not limited to situations when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience;
- Submission or rejection of such conduct is used as a basis for a decision regarding an employment, academic or other University-related activity affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or participation in a University program, department or extra-curricular activity; or
- Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working, learning, studying or school environment.

- **Sexual Exploitation**

Unwelcome surveillance or acts that violate a person's right to privacy in connection with their body and/or sexual activity, including, but not limited to:

- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent;
- Recording images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness where that person would have a reasonable expectation of privacy, without that person's consent;
- Disseminating or explicitly threatening to disseminate images (e.g. video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness where that person would have a reasonable expectation of privacy, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure;

- Using or installing, or permitting the use or installation of a device for the purpose of recording another person’s sexual activity, intimate body parts or nakedness in a place where the person would have a reasonable expectation of privacy, without that person’s consent;
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted infection (STI) and without informing the other person of the infection;
- Exposing one’s genitals in non-consensual circumstances; or
- Administering alcohol or drugs (such as “date rape” drugs) to another person without their knowledge or consent for the purpose of sexual activity.

**d. Retaliation**

Includes intimidation, threats, coercion or discrimination against any person by the University, a student (peer retaliation), or an employee or other person authorized by Adelphi to provide an aid, benefit, or service under the University’s education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including an informal resolution process.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this subsection of the Policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation under this subsection of the Policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

**v. False Report**

Submitting a false report of prohibited conduct or providing false or misleading information in bad faith in connection with an incident of discrimination, harassment, and/or retaliation is prohibited and subject to disciplinary action, up to and including dismissal from the University. Such bad faith reporting may constitute retaliation in violation of this Policy. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate. An inquiry into a false complaint may be considered in a separate complaint and resolved through a separate investigation.

**v. Other Definitions**

**Affirmative Consent (“Consent”)**

A knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate Consent. This definition does not vary based upon a participant's sex, sexual orientation, gender identity or expression. In addition:

- Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute Consent to any other sexual act;
- Consent is required regardless of whether the person initiating the act is under the influence of drugs or alcohol;
- Consent may be initially given but withdrawn at any time;
- Consent cannot be given when a person is incapacitated (as hereafter described);
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm; and
- When Consent is withdrawn or can no longer be given, sexual activity must stop.
- **Note on New York State Law:**
  - **The age of consent in New York State is 17 years old.** Children under 17 years of age cannot legally consent to sex or sexual contact with an adult (someone who is 17 years of age or older).
    - **Any sexual contact in New York between a child under 17 and an adult is a crime, and any such illegal behavior between a member of the Adelphi community who is under 17 and a member who is an adult will be reported to an appropriate law enforcement agency.** Other jurisdictions may have different standards, and any illegal behavior in such jurisdiction will also be reported to an appropriate law enforcement agency.
  - Other individuals who are legally incapable of Consent to sex or sexual contact in New York State include the mentally disabled, mentally incapacitated, physically helpless, and certain persons who are committed to the care and custody or a client or patient of a health care provider or certain governmental departments, offices or agencies (including the state department of correctional services, a hospital, the office of children and family services, the office of mental health, the office for people with developmental disabilities, or the office of alcoholism and substance abuse services), where the actor is an employee or volunteer of such department or health care provider.

## Complaint

An oral or written request received by the university that objectively can be understood as a

request for the university to investigate and make a determination about alleged prohibited conduct under this Policy.

### **Complainant**

A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, gender-based misconduct or other conduct prohibited by this Policy or a person other than a student or employee who is alleged to have been subjected to sex discrimination, gender-based misconduct or other conduct prohibited by this Policy and who was participating or attempting to participate in the University's education program or activity at the time of the alleged misconduct.

### **Confidentiality**

The commitment not to share any identifying information with others, except as required by law or in emergency circumstances (such as risk of death or serious bodily harm). Confidentiality may only be offered by individuals who are not required to report known instances of prohibited conduct to the Title IX Coordinator. See additional discussion in Section VI(b).

### **Day**

A business day, unless otherwise specified.

### **Disciplinary sanctions**

Consequences imposed on a respondent following a determination that the respondent violated the University's Policy.

### **Incapacitation**

Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacity is defined as the inability to make rational and reasonable decisions due to lack of capacity to give informed consent (e.g., the person lacks the ability to understand the "who, what, when, where, why or how" of engaging in sexual activity). A person cannot consent if he or she is unable to understand what is happening or is disoriented, physically helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. Incapacity can also result from a mental, intellectual or other disability or from involuntary restraint. An individual who engages in sexual activity when they know, or should know, that the other person is physically or mentally incapacitated has violated this Policy. It is not an excuse that the individual accused of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

In New York, a person under the age of seventeen cannot legally consent to sexual activity and is considered incapacitated.

## **Party**

A complainant or respondent.

## **Pregnancy or related conditions**

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

To learn more about resources available for pregnancy or pregnancy related conditions please visit our Student Pregnancy Policy & Parental Leave Policy or contact Human Resources for employees.

## **Preponderance of the Evidence**

A standard of evidence used during the investigation and determination of prohibited conduct under this Policy. A preponderance of the evidence means that it is more likely than not that prohibited conduct occurred.

## **Privacy**

Privacy is the assurance that an individual or the University will only reveal information about allegations of prohibited conduct to those that need to know the information in order to carry out their duties or responsibilities required by law and/or this Policy. Employees who are unable to offer confidentiality because they have a duty to report known prohibited conduct to the University, may offer privacy.

## **Relevant**

Information related to the allegations of prohibited conduct under investigation. Questions are relevant when they seek evidence that may aid in showing whether the prohibited conduct occurred, and evidence is relevant when it may aid a decisionmaker in determining whether prohibited conduct occurred.

## **Remedies**

These measures are provided to restore or preserve a person's access to the recipient's education program or activity after the University determines that prohibited conduct had occurred.

## **Report**

A report is verbal or written information conveyed to the University about conduct prohibited by this Policy. A report can be made at any time in person, by mail, by phone, or by electronic mail. A report is not the same as a complaint.

**Reporting Individual**

Any individual who reports prohibited conduct. This may or may not be the same as the complainant, a witness, or a bystander.

**Respondent**

A person who is alleged to have violated this policy.

**Writing** Whenever this Policy requires a “writing,” electronic mail satisfies the writing requirement.

**VI. Title IX Coordinator**

Reports or Complaints of sex discrimination, sexual misconduct or other prohibited conduct should be directed to the Title IX Coordinator. Any questions or concerns about this Policy should be directed to the Title IX Coordinator.

The University's Title IX Coordinator is:

Title IX Coordinator  
Allison Vernace  
Levermore, Room 106  
One South Avenue  
Garden City, NY 11530  
P: 516-877-4819  
E: [titleix@adelphi.edu](mailto:titleix@adelphi.edu)

Assistant Title IX Coordinator  
Emily Whearty  
Levermore, Room 207  
One South Avenue  
Garden City, NY 11530  
P: 516-833-8019

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please submit using the online [Reporting Form](#)

The Title IX Coordinator is responsible for coordinating the University’s compliance with its obligations under Title IX of the Education Amendments of 1972, New York State



Education Law 129-B and other federal, state and local laws pertaining to sex discrimination and gender-based misconduct.

The Title IX Coordinator has overall responsibility for implementation and compliance with this Policy, and will take prompt and effective action, as indicated in this Policy, to end any sex discrimination, sexual misconduct and other prohibited conduct, prevent its reoccurrence and remedy its effects.

The Title IX Coordinator also oversees the administration of this Policy and the Procedures in a neutral and equitable manner. The Title IX Coordinator also participates in outreach after notification of prohibited conduct, the investigation of complaints, and education of the campus on safety, compliance and reporting procedures.

## **VII. Resources and Information for Individuals Affected by Sex Discrimination, Sexual Misconduct and other Prohibited Conduct**

In addition to the provisions outlined in this Policy, individuals reporting allegations of sexual misconduct to University personnel shall be apprised of their rights at the time of their initial disclosure. Including, but not limited to:

- The right to notify proper law enforcement authorities, including on-campus and local police;
- The right to be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses;
- The right to decline to notify law enforcement.

To learn more about your rights see section XX of this Policy or the [Student Bill of Rights](#) webpage.

### **a. Obtaining Immediate Medical Attention and Emotional Support**

Individuals who have experienced sexual violence should promptly seek medical attention both to address their own health and to preserve potential evidence. This is strongly encouraged, regardless of whether the individual wants to file a complaint or pursue an investigation with the University or local law enforcement.

The University strongly encourages individuals affected by sexual misconduct to seek emotional support, either on or off-campus.

All parties have the right to be provided with information about available resources, including intervention, mental health counseling and medical services, including costs. The University will also provide information on sexually transmitted infections, sexual assault forensic examinations and resources available through the New York State Office of Victim

Services. To learn more visit [Sexual Assault: What Every Adelphi Student Needs to Know](#)

### **b. Reports to Outside Law Enforcement**

Any party may contact local law enforcement or the State Police directly, whether or not a complaint has been filed with the University; parties may also decline to notify law enforcement. It is important to preserve evidence as may be necessary to prove crimes or to obtain an order of protection. If requested, the University will provide assistance in making this contact. Upon notice of the complaint, the University's investigation will proceed regardless of whether a criminal matter is pending, though short delays may be allowed if necessary and requested by outside law enforcement agencies to conduct their investigation.

## **VIII. How to Report or Disclose Sex Discrimination, Sexual Misconduct and Other Prohibited Conduct**

### **a. Where to Report (Non-Confidential Reports)**

Anyone may report allegations of prohibited conduct using the following methods:

- (1) Adelphi's Online Reporting Form found [here](#)
- (2) Report to the following University employees:
  - a. Title IX Coordinator or Title IX Investigator  
E: [Title IX](#)  
P: 516.877.4819
  - b. Department of Public Safety and Transportation  
P: 516.877.3500
  - c. Assistant Vice President of Student Affairs and Dean of Students  
E: [degearo@adelphi.edu](mailto:degearo@adelphi.edu)  
P: 516.877.3654
  - d. Student Conduct and Community Standards  
E: [Student Conduct](#)  
P: 516.877.3612
  - e. Office of Human Resources  
E: [Human Resources](#)  
P: 516.877.3220
  - f. Residence Life and Housing (i.e. Resident Assistant, Assistant Directors)  
E: [Housing Residential Life](#)  
P: 516.877.3650

### **b. Who is a Confidential Resource?**

Confidential Employees have an obligation to maintain an individual's confidentiality regarding allegations of sex discrimination, sexual misconduct and other prohibited conduct, and will not share any identifying information with others, except as required by law in emergency circumstances.

University employees considered confidential resources include:

- (1) Counselors in the Student Counseling Center  
E: [Student Counseling Center](#)  
P: 516.877.3646
- (2) Medical professionals in Student Health Services at:  
E: [Health Services Center](#)  
P: 516.877.6000
- (3) Chaplains in the Interfaith Center at:  
E: [Interfaith Center](#)  
P: 516.877.3113
- (4) Off-campus confidential resources found on our [Title IX FAQs](#) page

### **c. Employee Reporting Responsibilities**

All employees who are not confidential employees (identified above in section VI.b.) are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute prohibited conduct under this Policy. Information about prohibited conduct can be learned through direct or indirect means including receiving information from other sources.

When an employee's duty to report is triggered, the employee must immediately report to the Title IX Coordinator, including all known information and details, even if the victim of the prohibited conduct does not want to file a report or complaint. The reporting employee must identify themselves to the Title IX Coordinator, provide their contact information and cooperate with any further inquiry from the Title IX Coordinator.

#### *1. Confidential Research Exception*

The requirements with respect to reporting and cooperation do not apply to faculty or students conducting confidential research under the supervision of an IRB, who, in the course of conducting such research, obtain information from research participants about sexual harassment, sexual violence, dating violence, domestic violence, stalking victimization or other violations under this Policy (subject to certain exceptions specified by IRB). In such cases, research participants must be informed that disclosures of the above offenses made during the course of the research will not be considered notice to the University for the purpose of initiating an investigation. Researchers should provide research participants with information regarding their options to report the misconduct to the Title IX Coordinator, the Department of Public Safety and Transportation and the local or state police, as well as the confidential resources available at the Student Counseling Center, Student Health Services, Campus Chaplains, and other community resources. listed in the following brochures:

*Sexual Assault, What every Adelphi student needs to know*  
*Sexual Assault, What every Adelphi employee needs to know*

*Domestic Violence, Dating Violence and Stalking, What every Adelphi student needs to know*  
*Domestic Violence, Dating Violence and Stalking, What every Adelphi employee needs to know*

These brochures can be found [here](#).

## 2. *Public Awareness Events*

When the University's Title IX Coordinator is notified of information about conduct that reasonably may constitute conduct prohibited by this Policy that was provided by a person during a public event to raise awareness about sex-based harassment that was held on the university's campus or through an online platform sponsored by the university, the university is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a complainant, any students, employees, or other persons.

### **d. Privacy v. Confidentiality after a Report is Received**

After a report is received, Adelphi is not able to guarantee confidentiality, because doing so may limit the University's ability to respond promptly and effectively, to ensure a safe, non-discriminatory and harassment-free environment and to effectuate this Policy.

However, Adelphi will maintain the privacy of the Complainant, reporting individual, Respondent and witnesses to the greatest extent possible. Information in connection with the allegations will be shared only with the Title IX Coordinator and other University staff who have a legitimate need for the information, or as otherwise required by law or this Policy. The University will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of its grievance procedures.

#### *1. Reports Involving Minors*

Adelphi is committed to the prevention of child abuse. Child abuse includes both the physical and sexual abuse of individuals under the age of eighteen. All Adelphi University employees are directed to bring all reasonable suspicions, beliefs and allegations of child abuse immediately to the attention of Public Safety or the Title IX Coordinator, who will then make the appropriate report to the New York State Child Abuse Hotline (State Central Register). Reports can also be made directly to the Child Abuse Hotline at 800-342-3720.

#### *2. Request that the University Maintain a Complainant's Anonymity or Not Conduct an Investigation*

The University will make every effort, consistent with its duty to provide a safe and non-discriminatory learning and working environment, to respect a Complainant's request that the University maintain their anonymity and/or not conduct an investigation. Honoring a request for anonymity may limit the University's ability to meaningfully investigate and pursue disciplinary action against a respondent. The

University will honor a complainant's request not proceed, unless in Title IX Coordinator's judgment, the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or another person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity. When considering whether to initiate a complaint, the Title IX Coordinator will make a fact-specific determination and will consider the following factors:

- The complainant's request not to proceed with initiation of a complaint;
- The complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the parties, including whether the respondent is an employee of Adelphi;
- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals,
- The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- Whether Adelphi could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

**e. Clery Act**

Adelphi has an obligation to report certain crimes occurring in specific geographic locations in Adelphi's annual security report pursuant to the Clery Act, 20 U.S.C. 1092(f). Adelphi will report these crimes in an anonymized manner that identifies neither the specifics of the crime nor the identity of the reporting individual. The Clery Act also requires Adelphi to maintain a daily crime log and issue timely warnings of certain crimes that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. The daily crime log and timely warnings will not identify the alleged victim or the reporting individual.

**f. FERPA**

The Family Educational Rights and Privacy Act ("FERPA") allows Adelphi to share information with parents when there is a health or safety emergency, or when the student is dependent on either parent's prior year federal income tax return.

Generally, Adelphi shall not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the student.

#### **g. Amnesty for Drug and Alcohol Violations**

The health and safety of every student at the University is of utmost importance. Adelphi University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident thought to be domestic violence, dating violence, stalking, or sexual assault to University officials or law enforcement will not be subject to the University's Code of Conduct action for violations of alcohol and/ or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

### **IX. Supportive and Protective Measures and Accommodations**

Supportive measures are non-disciplinary and non-punitive individualized measures offered as appropriate and as reasonably available, without unreasonably burdening a Complainant or Respondent, which are designed to:

- Restore or preserve equal access to the University's education program or activity, including measures that are designed to protect the safety of the parties or the University's educational environment; or
- Provide support during the University's grievance procedures or during the informal resolution process.

The University will offer and coordinate supportive measures as appropriate for the Complainant, Respondent, reporting individual and all third-party witnesses. Supportive measures are available when the University becomes aware of allegations of prohibited conduct under this Policy, whether or not a Complainant chooses to move forward with an investigation and/or resolution. Supportive measures may be provided on an interim or continuing basis. The Title IX Coordinator is responsible for coordinating and ensuring the effective implementation of supportive measures. These measures may include but are not limited to:

- referral to counseling services, medical, or other healthcare services;
- extensions of deadlines and other course-related adjustments;
- campus escort services;
- increased security and monitoring of certain areas of the campus;
- restrictions on contact applied to one or more parties;
- leaves of absence;

- no contact orders (see section “No Contact Order”)
- changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;
- training and education programs related to sex-based harassment;
- other similar measures or any other actions deemed appropriate by the Title IX Coordinator.

Supportive measures are private and the University will not disclose information about any supportive measures to persons other than the person to whom they apply, unless necessary to effectively implement the supportive measure.

**a. No Contact Orders**

A No Contact Order is a directive issued by the University prohibiting communication between specific parties.

All no-contact orders will be mutual – i.e. neither party involved will be permitted to contact the other party -- unless the Title IX Coordinator determines, in their discretion and after a fact-specific analysis, that a non-mutual order is appropriate. The Title IX Coordinator will issue any no-contact order in writing, specifying the terms of the no-contact order, including the parties’ responsibilities. Violations of a no-contact order issued pursuant to this Policy are grounds for discipline, including but not limited to expulsion or termination from the University.

**b. Emergency Removals**

If the Title IX Coordinator, in consultation with other University administrators as needed, determines based on an individualized safety and risk analysis that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of prohibited conduct justifies removal, the university will remove a respondent from its education program or activity on an emergency basis. Such a removal may be, but is not limited to, an interim suspension.

The University will provide the respondent with written notice and an opportunity to challenge the University’s decision immediately following an emergency removal, as provided below in Section –.

*1. Students*

The implementation and terms (such as the conditions or duration) of student emergency removal are at the discretion of the Title IX Coordinator and the Assistant Vice President for Student Affairs and Dean of Students.

Students who fail to comply with an emergency removal order or any other interim measures may be subject to discipline in accordance with the provisions of the Code of Conduct. Sanctions may include, but are not limited to, expulsion from the

University.

## 2. *Employees*

The Title IX Coordinator may recommend that a non-student employee respondent be placed on administrative leave at its discretion and/or in accordance with federal and state laws. The implementation and terms (such as the conditions or duration) of employee emergency removal are at the discretion of the Title IX Coordinator, Provost, and Chief Human Resources Officer. The Provost will oversee faculty emergency removals. The Chief Human Resources Officer will oversee staff emergency removals.

Employees who fail to comply with an emergency removal order or any other interim measures may be subject to discipline. Sanctions may include, but are not limited to, termination from the University.

### **c. Process for Modification of Supportive and Interim Protective Measures**

A Party or other individual subject to supportive measures may seek modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures or interim protective measures applicable to them. Requests for such modification will be reviewed by the Title IX Coordinator and must be made in writing and received within five (5) days of the decision under review or if applicable, within five (5) days of a material change of circumstances. The individual seeking modification may submit evidence in support of their request. If Title IX Coordinator determines that the decision to provide, deny, modify, or terminate supportive measures or interim protective measures was unreasonable, or inconsistent with the definition of supportive measures or interim protective measures included within this Policy, the Title IX Coordinator will have the authority to modify or reverse the original decision under review. The Title IX Coordinator will notify the party seeking modification, in writing, within seven (7) days of their written request for modification.

### **d. Students and Employees with Disabilities**

The University will provide reasonable accommodation to students and employees participating in any process within this Policy, in compliance with the following University policies implemented by the Student Access Office.

**Individuals seeking a reasonable accommodation related to the processes described in this Policy should notify the Title IX Coordinator, who will consult, as appropriate with the Student Access Office for students or the Office of Human Resources for employees.**



## **X. Evaluation of Reports and Initial Complaint Outreach**

### **a. Initial Outreach**

The Title IX Coordinator, when notified of conduct that reasonably may constitute conduct prohibited by this Policy, will send outreach communication to the complainant within four (4) business days of being notified to offer grievance procedures, informal resolution process options and other resources and supportive measures available.

The Title IX Coordinator will provide the complainant with information about their option to:

- notify proper law enforcement authorities, including on-campus and local police;
- be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses;
- the option to decline to notify law enforcement;
- and how to seek confidential services.

During the initial meeting, the Title IX Coordinator will discuss the Students' Bill of Rights and additional rights for individuals reporting sexual misconduct, including Title IX sex-based harassment. The Bill of Rights and additional rights can be found section XX(a) of this Policy.

### **b. Evaluation of Reports**

Upon receipt, the Title IX Coordinator will evaluate all reports of conduct that purportedly violates this Policy. When the alleged behavior, if true, would constitute prohibited conduct under this Policy, the Title IX Coordinator will evaluate whether the report constitutes a complaint triggering the University's grievance procedures outlined below in Section –.

The Title IX Coordinator will work with the complainant to determine whether the complainant prefers only a supportive response or whether the complainant would like to proceed with a formal grievance (complaint) process or Informal Resolution process.

When the alleged behavior, if true, would not constitute prohibited conduct under this Policy, the Title IX Coordinator will refer the report to the appropriate office or official within the University for response and resolution.

The Title IX Coordinator will conduct this initial evaluation of a report within ten (10) business days of receipt.

## **XI. Responding to Sex Discrimination, Sexual Misconduct and Other Prohibited Conduct**

The University has adopted grievance procedures that provide for the prompt and equitable resolution of complaints alleging any action that would be prohibited by this Policy.

The grievance procedures identified below will apply to all complaints of prohibited conduct

under this Policy.

Once a complaint is received, the Title IX Coordinator will assign the investigation to either an investigator in the Title IX office or to Student Conduct and Community Standards, who will assign the matter to an appropriate staff member for investigation and/or resolution.

**a. Who may file a Complaint**

A complaint is any oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about sex discrimination, sexual misconduct and other conduct prohibited by this Policy. The following individuals can file a complaint:

Complaints of sex discrimination (including sex-based harassment), gender-based misconduct and other prohibited conduct under this Policy
A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, gender-based misconduct or other prohibited conduct under this Policy;
A person other than a student or employee of the College that has been subjected to conduct that could constitute sex discrimination, gender-based misconduct or other prohibited conduct under this Policy at a time when that individual was participating or attempting to participate in the College’s education program or activity;
A parent, guardian or other authorized representative with the legal right to act on behalf of a Complainant; or
The College’s Title IX Coordinator.
Complaints of sex discrimination (other than sex-based harassment)
The individuals listed above;
Any student or employee of the College; or

Any person other than a student or employee who was participating in the College's education program or activity at the time of the alleged sex discrimination.

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

- When the University becomes aware of a complaint of prohibited conduct under this Policy, the parties will have the following rights:
- The University will treat complainants and respondents equitably.
- The University presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.
- The University requires that any Title IX Coordinator, investigator, or decision maker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. See section XII. Conflict of Interest or Bias for more information.
- The University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures
- Evidence considered impermissible (see section ) will not be accessed or considered, except by the university to determine whether an exception applies. The impermissible evidence will not be disclosed; and will not otherwise be used.
- The University strictly prohibits retaliation, including against witnesses.

## **XII. Dismissals of Complaints**

The University may dismiss a complaint if any of the following apply:

- The University is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the university's education program or activity and is not employed by the University;
- The University obtains the complainant's voluntary withdrawal in writing of any or all of the allegations; the Title IX Coordinator declines to initiate a complaint; or the university determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute prohibited conduct under this Policy, if proven; or
- The University determines the conduct alleged in the complaint, even if proven, would not constitute prohibited conduct under this Policy and may refer the information to another unit for further appropriate action and resolution.

When a complaint is dismissed, the University will, at a minimum:

- Promptly notify the complainant in writing of the basis for the dismissal.
- If the dismissal occurs after the respondent has been notified of the allegations, the University will simultaneously notify the parties in writing.
- The University will inform the notified parties that a dismissal may be appealed on the bases outlined in the Section XI(o) of this Policy.
- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that the prohibited conduct does not continue or recur within the University's education program or activity

### **XIII. Consolidation**

The University may, but is not required to, consolidate complaints of prohibited conduct under this Policy against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, when the allegations arise out of the same facts or circumstances. The University may, but is not required to, consolidate complaints of conduct prohibited by other policies, such as violations of the Code of Conduct, concerning the complainant and respondent, arising under the same facts and circumstances and reserves the right to apply the grievance procedures outlined in this Policy to those consolidated matters.

### **XIV. Informal Resolutions**

Informal Resolution is one method to resolve a complaint of sex discrimination, sexual misconduct or other prohibited conduct and provides an alternative to resolving a complaint through the Formal Grievance Procedure outlined in Section VI-E.

The informal resolution process is designed to reach a mutually acceptable solution, which may include any remedy or sanction outlined in this policy, without the necessity for conducting further investigation or hearing. In some cases, informal resolution may offer a beneficial outcome for both parties. Informal resolution can take different forms, which will vary based on the preferences and goals of the parties.

Participation in the informal resolution process is voluntary. The University will not compel the parties to engage in the informal resolution process and will allow the parties to withdraw from the informal process at any time and resume the formal grievance process with respect to the formal complaint.

Participation in an informal resolution is voluntary and both parties must agree to engage in an informal resolution process and provide their voluntary consent before it begins. Parties may withdraw from the informal resolution process and resume the formal grievance process at any time before an informal resolution agreement is finalized. Informal resolution may take place at any point prior to a determination of responsibility. All complaints made

under this Policy will be eligible for informal resolution, although the Title IX Coordinator has the ultimate discretion to determine whether informal resolution will be available in a particular matter.

The Title IX Coordinator will inform the parties in writing of any informal resolution process it offers and determines appropriate. Before the initiation of an informal resolution process, the Title IX Coordinator or Student Conduct Officer will notify the parties in writing: (1) of a description of the allegations, (2) the parties' right to withdraw before an agreement is reached, (3) that once a resolution agreement is finalized, the parties cannot initiate or resume grievance procedures, (4) the potential terms that may be requested, and (5) the records that will be maintained or could be shared, including how information disclosed during an informal resolution process may or may not be used if a grievance procedure were initiated or resumed.

If both parties agree to begin an informal resolution process, the Title IX Coordinator or appointee will serve as the informal resolution facilitator (the "facilitator"). The facilitator will not be the same person as the investigator or decisionmaker and will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. In addition, the facilitator may not participate as a witness or in any other capacity during any resumed or subsequent investigation or disciplinary action. The facilitator will receive all training required by this Policy and applicable law and regulation.

The time frame for investigations will be tolled while the parties engage in the informal resolution process. The Title IX Coordinator will reevaluate the parties' progress toward informal resolution every thirty (30) days and has discretion to terminate the informal resolution process and resume the investigation at any time.

Any agreement reached through informal resolution must be acceptable to both parties and the University. Terms of an informal resolution agreement might include:

- a mutual agreement to abide by a No Contact Order
- Oral or written apology
- Acceptance of responsibility and penalty

If a resolution is reached, the facilitator will notify the parties in writing and a written memorandum will memorialize the agreement (the "informal resolution agreement"). Both parties and the Title IX Coordinator must sign the informal resolution agreement before it is finalized. Once finalized, the obligations in the agreement will be binding on the parties and the allegations of prohibited conduct under this Policy will be considered resolved. Violations of an informal resolution agreement will be referred for discipline or other appropriate action, as deemed appropriate by the Title IX Coordinator.

Once an informal resolution agreement is finalized, there is no right to appeal. Finalized informal resolution agreements will be maintained by the University for seven (7) years.

### **a. Information Shared During an Informal Resolution Process**

Any information shared or learned during the informal resolution process will not be documented or referenced in a resumed or subsequent investigation or disciplinary process. However, information gathered from another source during a resumed or subsequent investigation will not be excluded from an investigatory report or subsequent adjudication merely because it was shared by a party during an informal resolution process.

## **XV. Formal Grievance Process- Investigation and Determination**

When a complaint is not otherwise withdrawn, dismissed or resolved through an informal resolution, the University will conduct a fair, prompt and impartial investigation and determination in accordance with these procedures.

### **a. Notice of Allegations**

Upon initiation of the formal grievance process, the assigned investigator will simultaneously notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

1. The University's formal grievance process and any informal resolution process;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute prohibited conduct, and the date(s), time, and location(s) of the alleged incident(s);
3. The respondent is presumed not responsible for the prohibited conduct until a determination is made at the conclusion of the grievance procedures. Prior to such determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;
4. The parties may have an advisor of their choice, faculty advocate, and/or union representation as outlined in the section below, present during the course of any grievance process, including any related meeting or interview.
5. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.
6. Retaliation is prohibited;
7. The University's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.
8. If, in the course of an investigation, the University decides to investigate additional allegations of prohibited conduct by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

### **b. Advisors & Other Support**

During all meetings related to this process the parties may have one (1) advisor of their

choice and one (1) Faculty Advocate present. Unionized Employees are permitted one (1) union representative and one (1) advisor of choice or faculty advocate. All parties are permitted a maximum of two (2) people, as identified above, to accompany them through the grievance process. T

he role of the Advisor of Choice, Faculty Advocate, and Union Representation is narrow; they may attend and help a party prepare for all proceedings, such as meetings, interviews, and hearings. The Advisor of Choice, Faculty Advocate, and/or Union Representation may consult with the party throughout the process, including during interviews and hearings, but are not permitted to ask or answer any questions on the party's behalf during proceedings. All advisors, faculty advocates and union representatives are required to abide by the university's rules of decorum.

### *1. Advisor of Choice*

An advisor may be, but is not required to be, an attorney. An Advisor of Choice can assist with navigating and understanding the grievance process, provide emotional support during each portion of the process and attend any meeting or interview that is associated with the process.

### *2. Faculty Advocate*

Refers to designated members of the faculty who are available to assist a student party through Title IX Grievance Procedures. Faculty Advocates are appointed by the Provost. Faculty Advocates are trained by Student Conduct and Community Standards staff in conduct and grievance procedures, but function as independent advisors for parties.

Parties may choose to utilize these advocates upon request to the Title IX office at any time during the proceedings.

### *3. Union Representation*

Unionized employees are permitted one (1) union representative and one (1) advisor of choice or faculty advocate for all proceedings described herein. The union representative and advisor of choice can be the same person.

## **c. Investigations**

The University will designate a trained, competent, neutral investigator to conduct an adequate, reliable and impartial investigation. At all times, the burden is on the University - not on the parties - to conduct an investigation that gathers sufficient evidence to determine whether prohibited conduct occurred.

When the accused party is an employee of the University the Title IX Coordinator will

assign the investigation to the Title IX Office. When the accused party is a student the Title IX Coordinator will refer the investigation to the Office of Student Conduct and Community Standards for assignment of investigator.

The investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance (See Section —, Permissibility of Evidence).

Depending on the nature of the allegations, the investigation may include interviews with parties and witnesses (and follow-up interviews), collection of evidence, a review of documentation and any other steps deemed necessary by the investigator to thoroughly and fairly conduct the investigation. The Investigator will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings to a party whose participation is invited or expected with sufficient time for the party to prepare to participate. In cases where credibility is both in dispute and relevant to the allegations, the investigator will question parties and witnesses to assess credibility.

The parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.

#### **d. Permissibility of Evidence**

The investigator and Decision maker(s) will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the University to determine whether one of the exceptions below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the university obtains that party’s or witness’s voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that



someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

**e. Case File Review**

After the investigation, each party and the party's advisor and other support persons, if any, will have an equal opportunity to access the evidence gathered during the investigation that is relevant to the allegations and not otherwise impermissible. The parties and their advisors must sign an Agreement Regarding the Copying and Use of the Evidence File, which prohibits copying and sharing the evidence file, or any other information obtained solely through the grievance process, with third parties or for any purpose unrelated to the grievance process itself. The University will forward unauthorized disclosure of information and evidence obtained solely through these grievance procedures through the appropriate disciplinary procedures set out in the Code of Conduct and/or applicable Employee Handbook.

**Electronic access to the case file will be provided at the conclusion of the investigation. Parties will have ten (10) business days to review and provide a written response to the investigator.**

**f. Investigative Report**

For cases alleging sex-based harassment involving at least one student party, the investigator will also prepare an investigative report that fairly summarizes the investigation and all relevant evidence. The investigator will consider the written responses before completing the investigative report. The investigator will finalize the investigative report and send the finalized report to the parties.

The parties' written responses will be incorporated into the case file and shared with the decisionmaker.

**g. Sex Discrimination, Sexual Misconduct and Other Prohibited Conduct Determination Procedure**

The University follows a single-investigator model in all cases of prohibited conduct, except for those alleging sex-based harassment involving at least one student party. Following the completion of the investigation, the investigator will be appointed as the decision maker. The decision maker will make the final determination of responsibility.

## **h. Sex-Based Harassment Involving a Student as Complainant or Respondent Determination Procedure**

The University conducts a live hearing when there is an allegation of sex-based harassment involving at least one student party. Following the completion of the investigation, the Title IX Coordinator will assign the matter to be heard by a three (3) person Hearing Panel. The Hearing Panel will make the final determination of responsibility. The Hearing Panel will be selected from a diverse group of individuals composed of Adelphi employees who have been selected and trained on issues related to this Policy. The Title IX Coordinator may instead determine that a Hearing Panel external to the University will be assigned or that one or two external members be appointed to the hearing panel.

### *1. Hearing Notice*

Parties will receive written notice of the following:

- The date, time, and place of the hearing.
- The name and contact information of the Hearing Panel.
- The participants in the hearing (including but not limited to the parties, witnesses, etc.)
- Any technology expected to be utilized at the hearing.
- The purpose of the hearing.
- Instructions on Submission of Cross-Examination Questions to the Hearing Panel

### *2. Submission of Proposed Cross-Examination Questions*

During the live hearing, cross-examination will be conducted directly, orally, and in real time by the Hearing Panel. Prior to the hearing, parties will be permitted to submit proposed questions to be asked of the other party and any witnesses. Questions must seek relevant and not otherwise impermissible information, including questions challenging the credibility of a party or witness. Parties must submit proposed questions in writing in accordance with the instructions provided in the Written Notification of Hearing. Questions must be submitted at least three (3) business days before the scheduled hearing. Parties will also be permitted to submit proposed follow-up questions during the hearing, based on information shared at the hearing.

Before the scheduled hearing, the Hearing Panel will determine whether each proposed question is relevant and not otherwise impermissible and based on that determination, will proceed as follows:

- If a question is relevant and not otherwise impermissible, the Hearing Panel will ask the question at the hearing.
- If the Hearing Panel determines that a question is not relevant or otherwise impermissible, the proposed question will not be asked and the Hearing panel will

- explain its decision to exclude the question in writing and during the hearing.
- If the Hearing Panel determines that a question is unclear or harassing, the party will be given an opportunity to clarify or revise the question. If the party sufficiently clarifies or revises the question, and the question is deemed permissible, it will be asked.

The Hearing Panel may decline to ask any question deemed not relevant or otherwise impermissible within its sole discretion and is not required to give a lengthy or complicated explanation; it is sufficient, for example, for a Hearing Panel to explain that a question is irrelevant because the question calls for prior sexual behavior information without meeting one of the two exceptions outlined below, or because the question asks about a detail that is not probative of any material fact concerning the allegations. The Hearing Panel may also decline to allow any question that is duplicative of information already gathered or asked, irrelevant, or otherwise determined to be unnecessary or inappropriate.

#### **i. Hearing**

The hearing will take place on the date and time specified in the notice of hearing. If circumstances arise that require a change in the hearing date or time, the University will provide the parties with written notice explaining the reason for such change.

During the hearing, the parties may: (1) speak on their own behalf, (2) be accompanied by an advisor, who may be, but is not required to be, an attorney; and (3) attend the entire hearing, except for the deliberation phase. During any hearing, the parties will have an equal opportunity to refer to the evidence contained within the case file.

The hearing will proceed as follows:

- Opening Remarks by Hearing Panel
- Cross Examination by the Hearing Panel (see below)
- Closing Statements by the Parties
- Deliberation between Hearing Panel members

#### **j. Cross-Examination**

During the live hearing, cross-examination will be conducted in real time by the Hearing Panel. The parties are not permitted to question each other or witnesses directly or through their advisors; all cross examinations will be conducted through the Hearing Panel.

At the live hearing, the Hearing Panel will ask the parties and witnesses all relevant questions and follow-up questions submitted by the parties, including questions challenging the credibility of the parties or witnesses. Follow-up questions will be permitted during the course of the Hearing. Parties may submit follow-up questions to the Hearing Panel. The Hearing Panel can also ask follow-up questions of the parties.

Throughout the hearing, the Parties are permitted to request a conference to speak with

their advisor of choice, faculty advocate or union representation as needed.

The Hearing Panel may consider all evidence that they determine is relevant. The Hearing Panel is responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, regardless of whether that individual is a party, witness, or advisor.

Live hearings may be conducted with all parties physically present in the same geographic location, or, in the discretion of the University, any or all parties, witnesses, and other participants may appear at the live hearing virtually via technology enabling participants to simultaneously see and hear each other. The parties may request for the live hearing to occur in this virtual manner.

An audio or audiovisual recording/transcript of any live hearing will be created and made available to the parties for inspection and review.

#### **k. Written Determination**

Following an investigation and hearing, if applicable, the specified decision maker(s) will consider all relevant and not otherwise impermissible evidence and apply the preponderance of the evidence standard of proof to determine whether prohibited conduct occurred. The standard of proof requires the decision maker(s) to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision maker(s) are not persuaded under the applicable standard by the evidence that prohibited conduct occurred, whatever the quantity of the evidence is, the decision maker(s) will not determine that the conduct prohibited by this Policy occurred.

The Hearing Panel or decision Maker(s) will notify the parties simultaneously in writing of the determination whether prohibited conduct occurred including:

- A description of the allegations;
- Information about the policies and procedures that the decision maker used to evaluate the allegations;
- A description of the procedural steps taken and notifications to the parties and witnesses;
- The decision maker(s) evaluation of the relevant and not otherwise impermissible evidence and determination whether prohibited conduct occurred;
- When the decision maker(s) finds that prohibited conduct occurred, a statement that the matter will be referred to the appropriate University official for determination of sanctions, a statement that remedies (other than the imposition of disciplinary sanctions) will be provided by the university to the complainant, and, to the extent appropriate, other students identified by the university to be experiencing the effects of the prohibited conduct;
- Procedures and permissible bases for the complainant and respondent to appeal.

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

### **I. Impact Statement**

In cases of Sex-based harassment or Dating Violence, Domestic Violence, Sexual Assault, and Stalking involving a student as the complainant, the parties will be offered an opportunity to provide impact statements. The impact statement must be submitted to the Title IX Coordinator. The impact statement will be provided to the appropriate office deliberating on sanctions. Parties will also receive a copy of the submitted impact statements.

### **m. Disciplinary Sanctions**

Following a determination that prohibited conduct occurred, the University may impose disciplinary sanctions, which include:

- A reprimand or written warning;
- Changing the respondent's work or academic schedule;
- Disciplinary probation;
- Revocation of honors, awards, or a degree;
- Community service and/or training;
- Restricting the respondent's access to the University's facilities or activities;
- Changing the respondent's work or housing assignment;
- Dismissal from or restricting or reassignment of University employment;
- Removing the respondent from student housing;
- Suspension (limited time or indefinite);
- Expulsion or termination;
- Forfeiture of a benefit, honor, leadership position, or other privilege enjoyed by virtue of the person's membership as adjunct faculty, staff, or administration;
- Demotion or forfeiture of promotion or salary increase;
- Reassignment of University employment;
- Respondents who are non-student employees may also be placed on administrative leave during the pendency of a formal grievance process or resolution process
- Any other actions deemed appropriate.

#### *1. Sanctions for Student Respondents*

After the case determination is shared with the parties, the Office of Student

Conduct and Community Standards will be assigned the matter for the imposition of disciplinary sanctions.

The student respondent will receive a Sanction Letter detailing the imposed sanctions, issued by The Office of Student Conduct and Community Standards.

#### B. Transcript Notations

Students suspended or expelled for committing an act of Sexual Assault, Stalking, Domestic Violence, Dating Violence or a violent crime as defined by the Clery Act will have a notation placed on their transcript as follows: “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” If a finding of responsibility is vacated for any reason, the transcript notation will be removed.

The University will consider requests to remove transcript notations. Requests for removal must be made in writing and directed to the Title IX Coordinator. A student may appeal a transcript notation to request its removal in the event of a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension. Notations for expulsion shall not be removed.

***Withdrawal while investigation pending:*** If a student respondent withdraws from the University while an investigation pursuant to this Policy is pending and declines to complete the disciplinary process, the following notation will be placed on their transcript: “withdrew with conduct charges pending.”

#### 2. *Sanctions for Employee Respondents*

After the case determination is shared with the parties, the Office of Human Resources or the Provost Office will be assigned the matter for the imposition of disciplinary sanctions.

The employee respondent will receive a Sanction Letter detailing the imposed sanctions issued by the Office of Human Resources or the Provost Office.

Employees who are unionized, any disciplinary sanctions will be instituted in accordance with the relevant disciplinary argument of the applicable Collective Bargaining Agreement.

#### n. Remedial Action

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

- Coordinate the provision and implementation of remedies to a complainant and other people the Title IX Coordinator identifies as having had equal access to the university's education program or activity limited or denied by sex discrimination;
- Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the university's education program or activity.

#### **o. Appeals**

Parties appealing the dismissal of a complaint ("dismissal") or a determination of responsibility ("determination") must submit a request for appeal to the Title IX Coordinator within three (3) business days of written notification of the dismissal, determination, or sanctioning.

The request must also specify the basis for which the party is requesting an appeal. Appeals are permitted are only the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made;
- The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants, respondents, or the individual complainant or respondent that would change the outcome; and
- The sanction imposed is clearly not appropriate for the violation. (For determinations only).

#### *1. Appeal Procedures*

If a party appeals a dismissal or determination, the University will:

- Simultaneously notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decision maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decision maker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that the University will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome within ten (10) business days of notice of appeal; and
- Notify the parties in writing of the result of the appeal and the rationale for the result. Any additional procedures or bases for appeal the university offers will be equally

available to all parties.

A preliminary review of requests to appeal will be reviewed by:

- For complaints involving a student Respondent, by the Assistant Vice President and Dean of Students;
- For complaints involving an employee Respondent, by the Provost or Chief Human Resources Officer (or designee).

If the reviewer of the appeal grants the appeal, the appeal will be considered and decided by a panel of three (3) University Hearing Panel members, who have not been previously involved with the matter, and who do not have a conflict of interest in making a determination. The panel members shall conduct a document review-appeal and issue a decision as appropriate.

For appeals from a determination of responsibility, the Appeal Panel may:

1. Affirm the original determination of responsibility and/or sanction; or
2. Grant the appeal and refer the matter back to the decisionmaker for a new determination or rehearing consistent with the reasons provided by the Appeal Panel to correct the error or the sanctioning officer, for a new sanction.
3. Refer the appeal based on significant and relevant new information to the original investigator(s) for reconsideration. A successful appeal permits the original investigator(s) to consider ONLY the matter resulting in a remand, such as the new evidence, or to address ONLY those other grounds that were determined to be present and significant.

For appeals from a dismissal, the Appeal Panel may:

1. Affirm the dismissal; or
2. Grant the appeal and overturn the dismissal. If the dismissal is overturned, the matter will be referred back to the Title IX Coordinator for continuation of the grievance process.

The Appeals Panel shall not include the Title IX Coordinator, decision maker(s), or investigator. The Appeal process will be conducted in a reasonably prompt timeframe upon receipt of a request for appeal. The Appeals Panel will simultaneously issue a written decision to the parties describing the result of the appeal and the rationale for the result within ten (10) business days of receipt of the complete record, including the parties' written submissions. The decision of the Appeals Panel regarding the appeal is final.

## **XVI. Conflict of Interest or Bias**

Throughout the grievance procedures above, parties will have opportunities to challenge the assignment of investigators and decisionmakers for bias or a conflict of interest.

If any party believes that an individual involved in the investigation, resolution or appeals process has a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, either party may make a request to have that conflicted or



biased individual removed from the process. Requests for removal must be made in writing to the Title IX Coordinator within five (5) days of the notification that the individual is to be involved or revelation of their conflict of interest or bias, whichever is later, and include a detailed description of the alleged conflict of interest or bias. If the Title IX Coordinator is the individual with the alleged conflict or bias, the request for removal must be made in writing to the Vice President of Administration for review.

The individual with the alleged conflict or bias will be asked to provide a short, written response to the party's request for removal, which will be considered before a determination is made. If a conflict or bias exists, immediate steps will be taken to replace the individual at issue to ensure an impartial and fair process.

If any administrator designated by this Policy to participate in the investigation or resolution of prohibited conduct is the Respondent, the Vice President of Administration will appoint another administrator to perform such person's duties under this Policy.

## **XVII. Prohibited Relationships as Sexual Harassment**

The relationship between faculty and students is central to the academic mission of the University. Personal ties should not be allowed to interfere with the academic integrity of the faculty/student relationship. With respect to sexual, amorous or intimate relations in particular, what might appear to be consensual, even to the parties involved, may in fact not be so, due to the inherent imbalance of power.

Therefore, any employee, including but not limited to, professors, instructors, coaches and/or graduate assistants, are prohibited from having sexual contact and/or romantic, intimate or amorous relationships with any student they teach, supervise, coach or advise.

Similarly, any administrator or employee in a supervisory role may not have sexual relations and/or romantic, intimate or amorous relationships with any student or employee they supervise directly or indirectly.

Examples of prohibited conduct/relationships include but are not limited to: sexual relations between a student and an administrator, coach, advisor, program director, counselor, or professional residential staff member who has oversight responsibility for a student.

The University will respond to all reports of prohibited or inappropriate sexual, amorous or romantically intimate behavior. violation of this policy will be considered presumptive evidence of sexual harassment, regardless of whether the relationship was consensual. If, after the commencement of a consensual sexual, amorous or romantically intimate relationship, that is not prohibited by this Policy, the parties learn that due to a change in their duties, responsibilities, assignments or positions, their relationship will now be prohibited, both parties are required to notify the Title IX Coordinator as soon as possible in order to determine how to proceed. Notification is required regardless of whether the consensual relationship still exists. Persons involved in consensual sexual, amorous or romantically intimate relationships outside of the faculty/student, supervisor/subordinate, or others previously noted, must exercise caution to

prevent the development of harassing behavior or use of authority inappropriately. Consensual relationships can change and conduct once welcomed by both, may become unwelcome to one. The fact that there is initial consent to forming a romantic relationship or a specific sexual encounter does not preclude a charge of harassment in the future or transform unethical behaviors into acceptable conduct.

### **XVIII. Designation of Authority**

The University may, at its discretion, designate another trained and experienced person(s) to act in the place of the investigator, adjudicator, decision-maker, and/or facilitator in this Policy. If there is such a designation, the parties involved will be informed.

### **XIX. Recordkeeping**

For a period of seven (7) years, the University will maintain records generated in connection with reports, investigations, disciplinary proceedings, hearings, informal resolutions, appeals, and the audio, audiovisual recording, or transcript, as well as any determinations regarding responsibility including any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant. The University will also maintain records documenting the actions it took in response to reports of prohibited conduct, including supportive measures, to meet its obligations under applicable law.

All materials used to train the Title IX Coordinator, investigators, members of the Hearing Panel or Appeals Panel, and any individual who facilitates informal resolution processes will also be maintained for at least seven (7) years.

### **XX. Policy Revisions**

The most current revision of this Policy supersedes all previously issued revisions and inconsistent verbal or written policy statements. The University reserves the right at any time to change, modify, delete, or add to any of the provisions of this Policy.

### **XXI. Implementation**

This Policy is effective August 1, 2024 and applies to prohibited conduct that allegedly occurred on or after August 1, 2024. Prohibited conduct that allegedly occurred before the effective date of this Policy, regardless of when it is reported, will be handled in accordance with the applicable University Policy that was in effect at the time the behavior occurred.

### **XXII. Appendices**

#### **a. Student Bill of Rights**

The following can also be accessed at: <http://hr.adelphi.edu/title-ix/student-billof-rights>. In cases involving sexual assault, dating violence, domestic violence and/or stalking, all students have the right to:

1. Make a report to the local law enforcement and/or the state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault taken seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful healthcare and counseling services where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;

**b. Reporting Individuals and Complainants in Sexual Misconduct Cases  
Additional Rights**

- A reporting individual or complainant's identity shall remain private at all times if the reporting individual or complainant wishes to maintain privacy. Please see Section V(B) above for further explanation.
- If the accused is an employee of the University, the complainant has the right to disclose the incident to Human Resources and the right to request a confidential or private employee to assist in the reporting.
- The right to receive assistance from an appropriate University representative on how to initiate legal proceedings in family or civil court.
- The right to withdraw a complaint or involvement from the University process at any time. The University may still have obligations pursuant to state and federal law to investigate the incident and take action. The complainant may participate in the process to whatever degree they wish.
- All parties have the right to be provided with information about available resources, including intervention, mental health counseling and medical services, including costs. The University will also provide information on sexually transmitted infections, sexual assault forensic examinations and resources available through the New York State Office of Victim Services.
- To have the University issue a "No-Contact Order" in cases where the accused is a student, consistent with the procedures outlined in the Code of Conduct which also

provides for prompt review.

- To be assisted by Public Safety in obtaining an Order of Protection or an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent when received by the University and be provided with the opportunity to speak with a Public Safety Officer to answer questions, explain the provisions of the order, and explain the consequences for violating the order.
- To receive assistance from Public Safety in effecting an arrest when an Order of Protection is violated.
- When the accused is a student who presents a continuing threat to the health and safety of the community, to subject the accused to interim suspension consistent with the Code of Conduct, which has a provision for prompt review. 66
- When the accused is not a student, but is a member of the University community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements and the policies of the University.
- To receive reasonable interim accommodations (also referred to in this policy as supportive measures) regarding academics, housing, employment, transportation or other applicable arrangements to help ensure safety, prevent retaliation and a hostile environment, consistent with the University's policies. Both parties and the reporting individual shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects them, and shall be allowed to submit evidence in support of their request.
- To request student conduct charges be filed against an accused student governed by this Policy in conjunction with the Code of Conduct, which include, among other things, the right to receive written notice of the charges, date, time, location and factual allegations concerning the violation, dates of meetings, the final determination, possible sanctions, to review the record and evidence in the case file, or otherwise in the possession or control of the University, and relevant to the conduct case, present witnesses and evidence and be accompanied by an advisor of choice to all meetings and the presumption that the respondent is not responsible until proven otherwise.
- To receive a prompt response to the complaint or formal complaint and have it investigated and adjudicated in an impartial, timely, and thorough manner by impartial individuals who do not have a conflict of interest and who have been trained annually in conducting investigations involving sexual misconduct, the effects of trauma, the need for impartiality, the rights of the accused and the presumption of "not responsible."
- Both parties have the right to exclude their own prior sexual history with persons other than the other party to the proceedings or their own mental health diagnosis and/or treatment from admittance into the disciplinary stage that determines responsibility. Past findings of dating violence, domestic violence, stalking or sexual assault may be admissible in the sanction stage.
- Both parties have the right to choose whether to disclose or discuss the outcome of the University proceedings and have information obtained during the proceedings protected from public release until the appeals panel makes a final determination, unless required by law. This provision applies unless the exceptions under the Title IX Sexual Harassment Grievance Process apply.

- For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), the University will make a notation on the transcript of students found responsible after a conduct process that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” For a respondent who withdraws from the University while such conduct charges are pending, and declines to complete the disciplinary process, it will make a notation on the transcript of such students that they “withdrew with conduct charges pending.” A student has the right to appeal such transcript notation to request its removal in the event of a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension. Notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.
- Adelphi University has a Memorandum of Understanding with the Sexual Assault Nurse Examiner Program at Northwell Health (formerly North Shore Hospital) to provide forensic examinations in appropriate sexual assault cases.
- The University will conduct an anonymous Campus Climate Survey every other year to ascertain general awareness and knowledge of issues pertaining to sexual assault, dating violence, domestic violence and stalking, which will be developed using standard and commonly recognized research methods. The results of this survey will be published on the University website provided that no personally identifiable information or information which can reasonably lead a reader to identify an individual shall be shared. The University will take steps to ensure that answers to climate surveys remain anonymous and that no individual is identified. Information discovered or produced as a result of the climate survey will not be subject to discovery or admitted into evidence in any federal or state court proceeding or considered for other purposes in any action for damages brought by a private party against the University, unless, in the discretion of the court, any such information is deemed to be material to the underlying claim or defense.
- Information regarding confidential and other available resources are addressed herein and posted on the University’s Title IX website.

**c. Distinctions Between New York State Penal Law and the College Disciplinary Process<sup>1</sup>**

	<b>Criminal Justice System</b>	<b>College/University Disciplinary System</b>
<b>Goals.</b>	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.

<sup>1</sup> New York State Education Law Article 129-B requires that college or other officials explain differences between college processes and the criminal justice process in addressing sexual and interpersonal violence. The referenced chart was jointly developed by Chantelle Cleary, Title IX Coordinator, University at Albany; Lori Fox, General Counsel, Teachers College; Rachel J. Nash, Associate General Counsel, City University of New York; Andrea Stagg, Deputy General Counsel, Barnard College; and Joseph Storch, Associate Counsel, State University of New York.

<b>Governing Law.</b>	New York State Penal Code; New York State Rules of Criminal Procedure (or another state’s rules if the crime took place there), Federal Criminal Law, and Rules of Evidence.	Title IX; The Clery Act as amended by the Violence Against Women Act; NYS Education Law sections 129-A and 129-B. More specific rules govern particular colleges and universities.
<b>How to report and whether there must be action once a report is made.</b>	Crimes involving sexual violence may be reported to campus police (if the campus has police officers), the local police agency, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury.	Victims may disclose sexual violence to various college employees who are designated confidential resources or to others who will try to ensure privacy to the extent consistent with the institution’s obligation to provide a safe educational environment. Disclosures made to a confidential resource will not trigger an investigation. When a report is made to the Title IX Coordinator (TIXC) or another Non-Confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community.
<b>Who investigates?</b>	Police or other law enforcement officials.	Investigators employed or retained by the college or university; these individuals may work for different departments within the institution, including, but not limited to, the police/public safety department, student affairs and academic affairs.
<b>Procedures</b>	See Governing Law. Procedures established by police departments, prosecutors’ offices, etc.	College/University policies and Bylaws, which generally incorporate requirements of Governing Law. Collective bargaining agreements may impact some procedures.
<b>Standard of Evidence.</b>	Crimes must be proven “Beyond a Reasonable Doubt”	A violation of disciplinary rules must be found by a “Preponderance of the Evidence” (more likely than not)
<b>Confidentiality</b>	Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.	Colleges and universities offer confidential resources, but a disciplinary proceeding requires that relevant information be shared with those involved.
<b>Privacy.</b>	Criminal trials must be public.	Disciplinary proceedings are kept as private as possible, but information must be shared with certain individuals within the college, the parties, and pursuant to law.
<b>Who are the parties?</b>	The prosecution and defendant. The victim/survivor is <u>not</u> a party, but often the critical witness for the prosecution.	Varies by school—some consider the institution and the respondent to be parties, and confer on the reporting individual certain rights to participate, as the law provides. Otherwise, reporting individual and accused/respondent.

<b>Participation in the process.</b>	In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual's participation, it is generally more difficult to prove a crime beyond a reasonable doubt.	Reporting students cannot be required to participate in the college process. However, a college will be limited in its ability to respond if a reporting individual does not participate.
<b>Who initiates the proceedings?</b>	A prosecutor, acting on behalf of the state (or the United States in federal cases).	The college or university initiates proceedings. While rules vary from school to school, they most provide an active role for the reporting individual.
<b>Testimony.</b>	In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.	The rules are established by individual colleges and universities, but some institutions provide for alternative approaches that permit students to testify without having other parties in the room and/or to ask cross-examination questions only through the disciplinary panel, investigator, or representative of the reporting individual and/or respondent.
<b>Role of attorneys.</b>	Both the state and the defendant are represented by counsel; counsel may question witnesses.	Varies by school. Many permit the parties to be advised by attorneys but some limit the attorney's' roles to quietly speaking with their clients or passing notes.
<b>Mental Health and Sexual History.</b>	In New York, a reporting individual's prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly relevant evidence of that kind may be admitted.	Generally not admissible, but subject to quite limited exceptions. Education Law 129-b permits parties to exclude information about their prior sexual history with persons other than the other party and also to exclude evidence of their own mental health history in the fact finding phase of the disciplinary process.
<b>Possible Results.</b>	If a prosecution takes place, the defendant may <ul style="list-style-type: none"> <li>• plead guilty or "no contest"</li> <li>• have the case dismissed by the judge (on legal grounds)</li> <li>• be found "guilty" or "not guilty" by a judge or jury</li> </ul>	In cases that do not involve sexual assault, some schools permit mediation or similar procedures if parties agree. If there is a formal proceeding, the respondent may be found "responsible" or "not responsible" for violations of the institution's rules. Respondents may also accept responsibility before a finding by an adjudicator.
<b>Sanctions.</b>	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating college policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from the institution.

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