



## **POLICY AND PROCEDURES**

### **Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, and Related Retaliation**

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## **POLICY AND PROCEDURES**

### **Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, and Related Retaliation**

#### **Policy Statement**

Holy Family University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from Discrimination, Harassment, and Retaliation.<sup>1</sup> Holy Family University has adopted this Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, and Related Retaliation (the “Policy”) in order to advance its goal of maintaining an environment free of Discrimination, Harassment, Sexual Misconduct, and related Retaliation.

Holy Family University adheres to all federal and state civil rights laws. This Policy is intended to satisfy Holy Family University’s commitments under civil rights laws including, but not limited to, Title VII of the Civil Rights Act of 1964, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (“Title IX”), Section 504 of the Rehabilitation Act of 1973 (“Section 504”), the Americans with Disabilities Act (the “ADA”), the Age Discrimination in Employment Act of 1967 and Age Discrimination Act of 1975, and the Pennsylvania Human Relations Act, the Pennsylvania Fair Educational Opportunities Act, and other federal, state, and local laws (collectively, “Civil Rights Laws”).

Holy Family University encourages individuals who have been affected by Discrimination, Harassment, Sexual Misconduct, and/or Retaliation to promptly make a Report to Holy Family University using any of the reporting options described in this Policy. Holy Family University will respond promptly and equitably to all Reports of Discrimination, Harassment, Sexual Misconduct and/or Retaliation, and will take appropriate steps to eliminate the behavior, prevent its recurrence, and address its effects.

Holy Family University values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

#### **Policy Application**

The behavioral expectations of this Policy apply to all Holy Family University Students, employees, trustees, officers, applicants for admission or employment, volunteers, independent contractors, and other individuals participating or attempting to participate in Holy Family University’s Education Program or Activity. The behavioral expectations of this Policy further apply to any alleged Prohibited Conduct that impacts the Holy Family University community and/or Holy Family University’s Education Program or Activity wherever it occurs, including on campus, off campus, and online.

When the Respondent is a member of the Holy Family University community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the Holy Family University community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness.

#### **University Nondiscrimination Statement**

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<sup>1</sup> Terms capitalized throughout the Policy are defined in the section of the Policy titled “Definitions of Prohibited Conduct” or in Appendix A.

Holy Family University does not Discriminate, nor does it permit Discrimination, including Harassment and/or Retaliation, on the basis of race; color; sex (including sex stereotypes, sex characteristics, sexual orientation, or gender identity); Pregnancy or Related Conditions; religion; creed; ethnicity; national origin; disability; age; Parental, Marital, or Family Status; veteran or military status; genetic information; or any other protected category under applicable local, state, or federal law ("Protected Classes") in its Education Program or Activity, including with respect to applications for enrollment and/or employment. Holy Family University has adopted grievance procedures, set forward in this Policy, which provide for the prompt and equitable resolution of Complaints alleging any action which would be prohibited by this Policy. All Complaints brought under this Policy will be addressed promptly and equitably pursuant to the procedures provided for herein.

### **University Title IX Coordinator**

Marianne Price, M.S. serves as the Title IX Coordinator for Holy Family University. In this Policy, when the term "Title IX Coordinator" is used, the role should be understood to include any and all responsibility of the Holy Family University Title IX Coordinator, as well as any of the Title IX Coordinator's designees.

The Title IX Coordinator is responsible for coordinating Holy Family University's compliance with Title IX, which provides:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

The responsibilities of the Title IX Coordinator include:

- Taking prompt and effective steps to ensure that Discrimination does not continue or recur, and to remedy its effects;
- Facilitating the provision of a non-discriminatory environment and equal access to individuals experiencing Pregnancy or Related Conditions; and
- When notified of conduct that reasonably may constitute Discrimination,
  - Treating Complainants and Respondents equitably;
  - Offering and coordinating Supportive Measures for the Complainant and, if Informal Resolution Process or Grievance Procedures are pending, the Respondent;
  - Notifying Complainants or, if different, individuals making Reports, of the Informal Resolution Process and Grievance Procedures, as available and appropriate;
  - Notifying the Respondent of the Informal Resolution Process and Grievance Procedures, as available and appropriate, if a Complaint is made;
  - In the event of a Complaint, initiating the Grievance Procedures or, if available and appropriate and requested by all Parties, the Informal Resolution Process; and
  - In the absence of a Complaint made by a Complainant, or in the event of the withdrawal of any or all of the allegations in a Complaint, determining whether to initiate a Complaint.

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

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, or to report Prohibited Conduct committed by the Title IX Coordinator, contact the Chief of Staff & Executive Vice President. Concerns of bias or a potential conflict of interest by any other Title IX Team member, or reports of Prohibited Conduct by a Title IX Team member, should be raised with the Title IX Coordinator.

### **Deputy Title IX Coordinator, ADA/Section 504 Coordinator, and Nondiscrimination Coordinator**

The Deputy Title IX Coordinator supports the coordination and implementation of the University's compliance efforts for the Policy, and provides assistance to the Title IX Coordinator for intake meetings, initial

assessment, oversight of investigations, and training and prevention efforts. The Deputy Title IX Coordinator also serves as a Title IX & Civil Rights Investigator.

The University's ADA/Section 504 Coordinator is responsible for overseeing efforts to comply with the ADA and Section 504, including responding to grievances and conducting investigations of any allegation of noncompliance or Discrimination based on disability.

Grievances related to reasonable accommodations will be addressed using the Section 504/ADA Grievance Procedures as outlined in the Student Handbook.

La-Riese Eldridge-Garcia, M.Ed., Associate Dean of Students, has been designated as the University's Deputy Title IX Coordinator, ADA/Section 504 Coordinator, and Nondiscrimination Coordinator.

### **Title IX & Civil Rights Investigators**

Under direction of the Title IX Coordinator, Title IX & Civil Rights Investigators investigate complaints filed by students and employees involving Prohibited Conduct. Investigators complete in-depth and ongoing training and assist the University in ensuring a timely response and resolution of complaints. The University retains the right to utilize external Investigators when it deems necessary.

### **Reporting Prohibited Conduct to the Title IX Coordinator, Deputy Title IX Coordinator, and Nondiscrimination Coordinator**

The Title IX Coordinator, Deputy Title IX Coordinator, and Nondiscrimination Coordinator are available to receive Reports or Complaints about conduct that may constitute Discrimination, Harassment, or Retaliation. Title IX Coordinator, Deputy Title IX Coordinator, and Nondiscrimination Coordinator are also available to meet with any individual, including a Complainant, a Respondent, or a third party, to provide information, on- and off-campus resources, and various procedural options. The Title IX Coordinator, Deputy Title IX Coordinator, and Nondiscrimination Coordinator can be reached, and Reports and Complaints can be made, through any of the following channels:

Marianne Price, Dean of Students & Title IX Coordinator  
 Campus Center Room 209, Philadelphia Main Campus  
 9801 Frankford Avenue, Philadelphia, PA 19114  
 267-341-3204  
[mprice@holysfamily.edu](mailto:mprice@holysfamily.edu) | [titleix@holysfamily.edu](mailto:titleix@holysfamily.edu) | [equity@holysfamily.edu](mailto:equity@holysfamily.edu)  
<https://www.holysfamily.edu/title-ix>  
<https://www.holysfamily.edu/current-students/student-resources/office-of-equity-inclusion>

La-Riese Eldridge-Garcia, M.Ed., Associate Dean of Students / Deputy Title IX Coordinator  
 Campus Center Room 208, Philadelphia Main Campus  
 9801 Frankford Avenue, Philadelphia, PA 19114  
 267-341-3281  
[leldridge-garcia@holysfamily.edu](mailto:leldridge-garcia@holysfamily.edu) | [equity@holysfamily.edu](mailto:equity@holysfamily.edu)  
<https://www.holysfamily.edu/current-students/student-resources/office-of-equity-inclusion>

The University has established an online reporting system to receive Complaints of Prohibited Conduct, and the system has the option of reporting anonymously. If you would like to submit an online report, you can do so at the following web address: <https://holysfamily-pa.safecollegesincident.com>.

## Internal and External Inquiries

Inquiries about the application of civil rights laws to Holy Family University or questions regarding this Policy may be directed to the Title IX Coordinator and may also be directed externally to the United States Department of Education's Office for Civil Rights ("OCR"), contact for which follows.

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

Employees may also direct inquiries to the Equal Employment Opportunity Commission ("EEOC")

Equal Employment Opportunity Commission  
 801 Market Street, Suite 1000  
 Philadelphia, PA 19107-3126  
 Phone: 1-800-669-4000 / 267-589-9700  
 Email: [PDOContact@eeoc.gov](mailto:PDOContact@eeoc.gov)  
 Fax: (215) 440-2606  
 TTY: (844) 234-5122  
 EEOC Website (<https://www.eeoc.gov/field-office/philadelphia/location>)

## Privacy

Privacy refers to the University's commitment to sharing information related to any Report, Complaint, Supportive Measures, Informal Resolution Process, or Grievance Procedures under this Policy only:

- To a person with a legal right to receive disclosures of information, or with prior written consent;
- When necessary to effectuate this Policy, or to otherwise address conduct which may reasonably constitute Discrimination, Harassment, or Retaliation;
- As required by Federal law or regulation, including by the terms and conditions of a Federal award (e.g., a grant award or other funding agreement); and/or
- When required or permitted by State or local law or the Family Educational Rights and Privacy Act ("FERPA").

Holy Family University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to FERPA. Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Human Resources, Office for Equity & Inclusion, Division of Student Affairs, and the Campus Assessment, Response and Evaluation (CARE) Team. Information will be shared as necessary with Support Advisors, Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

In order to preserve the privacy of the Parties and witnesses, documents prepared in connection with an investigation and adjudication (including, but not limited to, Complaints; Notices of Allegation; draft and final interview summaries; draft and final descriptions of evidence and/or investigative reports; notices of hearing; notices of outcome; notices of Disciplinary Sanctions and/or Remedies; and any appeals-related documents), as well as audio and/or audiovisual recordings or transcripts thereof made of any proceedings under this Policy, may not be disclosed by Parties or others acting on their behalf other than as provided for herein, and as may be required or authorized by law. Any violation of this provision may result in discipline.

In any Grievance Process, other than as provided for herein (for example, with respect to the privacy of documents, and with respect to the University's prohibition on Retaliation), the University will not restrict the ability of either Party to discuss the allegations prompting a Report or Complaint.

## **Confidential Resources**

Holy Family University encourages all members of the community to report any incident of Prohibited Conduct as promptly as possible so that the University can respond effectively. The University recognizes, however, that not every person will choose to make a Report to the University or with local law enforcement. When consulting campus resources, community members should be aware of confidentiality and mandatory reporting in order to make informed choices. On campus, some resources can offer confidentiality, sharing options and advice without any obligation to tell anyone unless the reporting individual wants them to do so. Other resources are expressly required to report incidents of Prohibited Conduct to the Title IX Coordinator.

Confidential communications are those exchanged with individuals ("Confidential Employees") belonging to certain professions (such as healthcare providers, professional counselors, or pastoral counselors) which require maintaining the confidentiality of communications disclosed to the individual in the context of providing professional services. Such individuals cannot disclose the content of those communications, or records of same, to any third party without the disclosing individual's prior written consent, or if permitted or required by law or relevant professional ethical obligations (such as "duty to warn"). These communications are privileged under Federal or State law.

Employees of the University who serve in such roles include the following:

Supervising Clinician, University Clinician and Clinical Coordinator for Crisis Management  
Philadelphia Main Campus, Delaney Hall, Center for Wellness & Spirituality  
267-341-3222

Director of Campus Ministry and University Pastor  
Philadelphia Main Campus, Campus Center, Room 224  
267-341-3261

Also included in the category of Confidential Employees are individuals who conduct human subjects-research studies that have been approved by the Institutional Review Board ("IRB") and which are designed to gather information about Discrimination, with respect to information disclosed in the course of conducting the approved study.

Confidential Employees are not required to notify the Title IX Coordinator when a person informs them of conduct that may constitute Prohibited Conduct, including Sex Discrimination, if that information is provided while the Confidential Employee is functioning within the scope of their duties to which confidentiality applies.

Importantly, Confidential Employees should, upon receipt of information about conduct that may constitute Prohibited Conduct:

- explain that they are a Confidential Employee;
- provide contact information for the Title IX Coordinator;
- explain how to report Prohibited Conduct; and
- inform the disclosing individual that the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an Informal Resolution Process or investigation under the Grievance Procedures.

## Officials With Authority (OWA)

In addition to the Title IX Coordinator, the following College employees are Officials With Authority:

- Dean of Students
- Associate Dean of Students
- Academic Deans
- Academic Vice/Associate/Assistant Deans
- Director of Residence Life
- Director of Human Resources

Each OWA has internal reporting obligations. Specifically, Officials with Authority are required to report to the Title IX Coordinator all information about Prohibited Conduct that they receive, regardless of how and when they learned of the information; e.g., whether the information was shared with them in the scope of their employment or in some other capacity.

***Only a made report to the Title IX Coordinator (either directly or from a Mandated Reporter) or an OWA triggers the University's obligation to respond to an allegation of Prohibited Conduct. In the case of a report of Prohibited Conduct to an OWA, the Title IX Coordinator will contact the Complainant.***

## Mandated Reporters

All Holy Family University employees, including faculty and staff, are Mandated Reporters of Prohibited Conduct. For the avoidance of doubt, volunteer coaches are Mandated Reporters, as are Students who are also employees of the University and/or who serve in the positions of community assistant, orientation leader, and/or graduate assistant.

With the exception of Confidential Employees acting in the scope of their duties to which confidentiality applies, all Holy Family University employees are obligated to promptly report incidents to the Title IX Coordinator. The Report should include all details known to them about the alleged incident, including the names of the involved Parties; the alleged conduct; and the date, time, and location of the incident (Mandated Reporters should disclose what they know, but should not attempt investigate or collect additional information). Where possible, Mandated Reporters should make an effort to ensure that the person reporting the conduct understands the employee's Mandatory Reporting obligation and the person's right to share the information confidentially with Confidential Employees, or with off-campus confidential resources.

A Mandated Reporter need not have learned of the reportable information from the individual allegedly affected by Prohibited Conduct for it to be reportable. A Mandated Reporter must report information they have received regardless of the manner of receipt, including through a third party. Mandated Reporters are not permitted to make anonymous Reports in order to satisfy their obligations as a Mandated Reporter.

Any questions regarding Mandatory Reporting responsibilities under this Policy should be directed to the Title IX Coordinator.

When the Title IX Coordinator receives a report of Prohibited Conduct from a Mandated Reporter, the Title IX Coordinator will in all cases where the Complainant is identified, contact the Complainant to: (1) discuss the availability of Supportive Measures; (2) ask about the Complainant's wishes with respect to Supportive Measures; (3) inform the Complainant of the availability of Supportive Measures with or without the filing of a Complaint, and (4) explain to the Complainant the process for filing a Complaint.

**Reminder:** only a report made to the Title IX Coordinator (directly or through a Mandated Reporter) or to an OWA will trigger the University's obligation to respond to an allegation of Prohibited Conduct, including by contacting the Complainant to discuss Supportive Measures. Please consider making a report directly to the Title IX Coordinator to ensure a prompt response.

## Mandatory Reporting of Known or Suspected Child Abuse

Nothing in this Policy affects an individual's obligations to report known or suspected child abuse, which are described in the University's Minors on Campus and in Programs Policy, which remains in full force and effect.

## Disclosures at Public Awareness Events

Disclosures at public awareness events such as "Take Back the Night" held on campus or on an online platform sponsored by the University will not prompt the Title IX Coordinator to take responsive action with respect to revelations of Prohibited Conduct unless the information reveals an immediate and serious threat to the health or safety of a Complainant, any Students, employees, or other persons, or unless the individual affected by the alleged Prohibited Conduct clearly indicates that they desire responsive action be taken. The University will still use the information disclosed to inform its education and prevention efforts.

## Definitions of Prohibited Conduct

The following behaviors constitute Prohibited Conduct under this Policy. (Note that conduct that does not meet fall within the scope of Prohibited Conduct) may still be prohibited under the Student Code of Conduct or Employee Code of Conduct.)

1. **Discrimination:** Discrimination is subjecting an individual or group to adverse action—including by treating them worse than other similarly-situated individuals—with respect to the terms of their education and/or employment on the basis of actual or perceived membership in a Protected Class under this Policy..
2. **Harassment:** Harassment is unwelcome conduct (including oral, written, electronic, graphic, or physical conduct) on the basis of actual or perceived membership in a Protected Class under this Policy that is sufficiently severe or pervasive that it limits or denies the ability of an individual to participate in or benefit from the University's Education Program or Activity by creating a **Hostile Environment**. This will be evaluated based on the totality of the circumstances and evaluated subjectively and objectively. Sexual Misconduct is a form of Harassment, but separately defined under this Policy.

Determining whether conduct has created a Hostile Environment is a fact-specific inquiry which may include many factors such as, but not limited to: the degree to which the conduct affected the Complainant's ability to access the University's Education Program or Activity; the type, frequency, and duration of the conduct; the Parties' ages, roles, previous interactions, and other factors about each Party that may be Relevant to evaluating the effects of the alleged unwelcome conduct; the location and context in which the conduct occurred; and other similar conduct in the University's Education Program or Activity.

*Important Note:* Holy Family University reserves the right to address offensive conduct that 1) does not rise to the level of creating a Hostile Environment, and/or 2) that is not based on a Protected Class. Addressing such conduct will not result in the imposition of discipline under University policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternate Resolution, and/or other informal resolution mechanisms. For assistance with Alternate Resolution and other informal resolution techniques and approaches, employees should contact Human Resources, and students should contact the Director of Equity & Inclusion / Deputy Title IX Coordinator.

3. **Sexual Misconduct:** An umbrella term used in this Policy to refer to Title IX Sexual Harassment and Non-Title IX Sexual Harassment.



4. **Title IX Sexual Harassment:** Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment I, Sexual Assault, Dating Violence, Domestic Violence, and/or Stalking which is alleged to have occurred in the United States and in a University Education Program or Activity.
5. **Non-Title IX Sexual Harassment:** Non-Title IX Sexual Harassment is Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment I or II, Sexual Assault, Dating Violence, Domestic Violence, and/or Stalking (each of which term is defined below) which is not alleged to have occurred in a University Education Program or Activity, and/or is not alleged to have been perpetrated against a person in the United States. As described in this Policy, conduct which could constitute Title IX Sexual Harassment may be pursued as Non-Title IX Sexual Harassment if the Complainant is not participating or attempting to participate in a University Education Program or Activity at the time the Complaint is made. Non-Title IX Sexual Harassment also includes Hostile Environment Sexual Harassment II.
6. **Quid Pro Quo:** An employee of the University explicitly or implicitly conditioning the provision of an aid, benefit, or service of the University on a person's participation in unwelcome sexual conduct. It does not matter whether or not the person submits.
7. **Hostile Environment Sexual Harassment I:** Unwelcome sex-based conduct (including oral, written, electronic, graphic, or physical conduct) that is sufficiently severe, pervasive, and objectively offensive that it effectively denies an individual equal access to any University Education Program or Activity.
8. **Hostile Environment Sexual Harassment II:** Unwelcome sex-based conduct (including oral, written, electronic, graphic, or physical conduct) that is sufficiently severe or pervasive, evaluated subjectively and objectively, that it limits or denies an individual equal access to any University Education Program or activity, or the ability of an individual to participate in or benefit from any University Education Program or Activity.
9. **Sexual Assault:** A forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes the following acts:
  - a. **Rape:** The carnal knowledge of a person without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.
  - b. **Sodomy:** Oral or anal sexual intercourse with another person without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.
  - c. **Sexual Assault With An Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.
  - d. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification without that person's consent, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity.
  - e. **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent.

- f. **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**10. Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship is determined based on a consideration of the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

**11. Domestic Violence:** A felony or misdemeanor crime committed by a person who is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the Commonwealth of Pennsylvania, or a person similarly situated to a spouse of the victim; is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; shares a child in common with the victim; or commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the Commonwealth of Pennsylvania.

**12. Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress. Stalking must be sex-based in order to be within the scope of this Policy. For the purposes of this definition:

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

**13. Retaliation:** Any intimidation, threats, coercion, or discrimination directed at an individual by the University, a Student or employee of the University, or any other person authorized by the University to provide aid, benefits, or services as part of the University's Education Program or Activity, for the purpose of interfering with that individual's right(s) under this Policy, or because the individual has made a Report or Complaint under this Policy; made a report or complaint to an external agency or to law enforcement; or participated or refused to participate in any investigation, adjudication, or other proceeding under this Policy, including an Informal Resolution Process or Grievance Procedures.

Retaliation includes peer retaliation, meaning retaliation by a student against another student, but also Retaliation by a student against an employee, or by an employee against a student, as well as by an employee against another employee of more or less senior role. An individual need not be a Complainant or Respondent to have committed or been affected by Retaliation.

It is not Retaliation for the University to require an employee, or other person authorized by the University to provide aid, benefits, or services as part of its Education Program or Activity, to participate as a witness in, or otherwise assist with, any investigation or adjudication under this Policy.

## Reports and Complaints of Prohibited Conduct

Reports and Complaints of Prohibited Conduct may be made using any of the following options:

1. Make a Report or Complaint to the Title IX Coordinator or Deputy Title IX Coordinator. Such a Report/Complaint may be made at any time (including during non-business hours) by using the

telephone number or email address, or by mail to the office address, listed above for the Title IX Coordinator or Deputy Title IX Coordinator.

2. Report online, using the reporting form posted at <https://holyfamily-pa.safecollegesincident.com>.

Any individual may make an anonymous Report. This means that they may report an incident without disclosing their name, for example, or withholding certain details, including, but not limited to, the identity of the Respondent. However, depending on the information available about a reported incident, the University's ability to respond may be limited. This includes, but is not limited to, the likelihood that the University will not be able to pursue Grievance Procedures against the individual alleged to have engaged in Prohibited Conduct, as typically the identity of the Complainant must be disclosed to the Respondent. When a known Complainant wishes to remain anonymous, the University will seek to respect the request of the Complainant, and where it cannot do so, will explain why.

There is no time limit on making a Complaint or Report, but individuals are strongly encouraged to report incidents of alleged Prohibited Conduct as soon as possible. This will enhance the University's ability to address the conduct at issue, including by extending Supportive Measures, and, if applicable, by conducting an investigation effectively, when Relevant evidence and witnesses are most available.

See Appendix A for more information on the requirements for making a Complaint.

## **Supportive Measures, Emergency Removal, and Administrative Leave**

### **Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized measures offered as appropriate, as reasonably available, and without fee or charge to the Parties. Supportive Measures are designed to restore or preserve a Party's access to the University's Education Program or Activity, including measures designed to protect the safety of the Party/Parties or the University's educational environment, and/or by providing support to the Party/Parties during a resolution process under this Policy.

Supportive Measures are available before or after the filing of a Complaint, as well as in cases in which no Complaint is ever filed. Supportive Measures are designed to restore or preserve equal access without unreasonably burdening either Party. They may, but may not, be modified or terminated at the conclusion of the Grievance Procedures or Informal Resolution Process.

Information about Supportive Measures provided to a person will not be disclosed, including by informing one Party of Supportive Measures provided to another Party, except when necessary to provide the Supportive Measures, or restore or preserve a Party's access to the University's Education Program or Activity.

Supportive Measures include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts

- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Persona Non Grata (PNG) orders
- Timely Warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Changes in class, work, housing, extracurricular, and/or other activities may be made regardless of whether there is or is not a comparable alternative.

A Party may seek modification or reversal of decisions to provide, deny, modify, or terminate Supportive Measures applicable to that Party by contacting the Title IX Coordinator. In the event of such challenges, the decisionmaker will be someone other than the person who made the decision being challenged and will have the authority to make the requested modification or reversal. In the event of a material change in circumstances affecting Supportive Measures, subsequent opportunities for review may be sought.

Violations of Supportive Measures will be referred to appropriate student or employee conduct processes for enforcement.

### **Emergency Removal**

Holy Family University can act to remove a student Respondent entirely or partially from its Education Program or Activities (such as, but not limited to, access to University facilities, housing, classes, and/or student activities, including athletics) on an emergency basis when an individualized safety and risk analysis has determined that an immediate and serious threat to the health or safety of any student, employee, or other individual arising from the alleged Prohibited Conduct justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Campus Assessment, Response and Evaluation (CARE) Team using its standard objective violence risk assessment procedures.

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

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion. There is no appeal process for emergency removal decisions.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be

given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within three (3) business days, objections to the emergency removal will be deemed waived.

Where the Respondent is an employee, existing provisions for interim action in the Faculty Handbook and Employee Handbook, as appropriate, are applicable.

### **Administrative Leave**

Holy Family University retains the authority to place a non-student employee Respondent on administrative leave during the Grievance Process. Administrative leave may include complete removal from the University workplace or limitations on access to the workplace and may be imposed with or without pay.

### **Disability Accommodations**

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations that would enable them to participate in all processes provided for under this Policy, including, but not limited to, making a Report or Complaint, participating in an Informal Resolution Process, and/or participating in an investigation and adjudication under the Grievance Procedures. If a Party requires such reasonable accommodations, they should promptly notify the Title IX Coordinator. . In cases in which a Party is a student with a disability, the Title IX Coordinator may consult, as appropriate, with the Party or the Office of Accessibility Services (for students) or Office of Human Resources (employees).

A Party should not assume that the Title IX Coordinator is on notice that they are an individual with a disability, even if the Party is registered to receive accommodations via Office of Accessibility Services (for students) or Office of Human Resources (employees). The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

### **Provisions Pertaining to Parental, Family, or Marital Status, and Pregnancy or Related Conditions**

#### **Nondiscrimination of Applicants, Students, and Employees**

In determining whether a person satisfies any University admissions policy or criterion, or in making any offer of admission, the University will treat Pregnancy or Related Conditions in the same manner and under the same policies as any other temporary medical condition. The University will not make pre-admission or pre-employment inquiry as to the Marital Status of an Applicant, including whether an Applicant is "Miss or Mrs." The University may ask an Applicant to self-identify their sex, but only when asking this question of all Applicants. The response will not be used as a basis for Discrimination.

The University will not adopt or apply any policy, practice, or procedure, or take any employment action, concerning the current, potential, or past Parental, Family, or Marital Status of a Student, employee, or Applicant that treats persons differently on the basis of sex, or which is based upon whether an employee or Applicant for employment is the head of household or principal wage earner in such employee's or Applicant's family unit. The University will not Discriminate against, establish or follow any policy, practice, or procedure that discriminates against, or exclude from employment any person on the basis of current, potential, or past Pregnancy or Related Conditions.

#### **Voluntary Student Participation in Separate Education Programs or Activities**

The University may offer students voluntary participation in a separate portion of its Education Program or Activity when comparable to what is offered to Students who are not experiencing Pregnancy or Related Conditions.

## **No Requirement of Medical Certification for Student Participation**

The University will not require a Student, due to Pregnancy or Related Conditions, to provide certification from a physician or other licensed healthcare provider that the Student is physically able to participate in classes, programs, or student activities unless necessary, required for all participating Students, and not used as a basis for discrimination.

## **Leaves of Absence**

### **Student Leaves of Absence**

A University Student experiencing Pregnancy or Related Conditions is allowed a voluntary leave of absence to cover, at minimum, the period of time deemed medically necessary by the Student's physician or other licensed healthcare provider. If other University leave policy allows a greater span of time than this period, the Student is permitted to take leave under that policy instead. Upon return, the Student will be reinstated to the academic and, as practicable, extracurricular status that the Student held when the leave began.

### **Employee Leaves of Absence**

In the event a University employee is not qualified for a leave, or if no leave or insufficient leave is available, Pregnancy or Related Conditions is a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

## **Lactation-Related Accommodations for Students and Employees**

The University will provide reasonable break time for a Student or employee to express breast milk or breastfeed as needed, and make available a lactation space, other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a Student or employee for expressing breast milk or breastfeeding as needed.

## **Student and Employee Rights to Reasonable Modifications or Temporary Adjustments**

Students are entitled to reasonable modifications to University policies, practices, or procedures because of Pregnancy or Related Conditions on an individualized and voluntary basis depending on the Student's needs when necessary to prevent discrimination and ensure equal access, unless the modification would fundamentally alter the Education Program or Activity. These may include but are not limited to: breaks to attend to health needs, including for expressing breast milk or breastfeeding; excused absences to attend medical appointments; access to online instruction; changes in schedule or course sequence; extensions of time for coursework; rescheduling of tests and examinations; counseling; changes in physical space or supplies; or elevator access. Such modifications will be comparable to the treatment of other temporary disabilities or conditions.

The University will not require Students to provide supporting documentation unless necessary and reasonable to determine reasonable modifications. It will by definition be not necessary and reasonable when the need for the specific action is obvious; when the Student has previously provided sufficient supporting documentation; when the reasonable modification relates to drinking water, using a bigger desk, and/or the need to sit, stand, or take breaks to eat, drink, or use the restroom; when the Student has lactation needs; or when the requested specific action is available to Students for reasons other than Pregnancy or Related Conditions without the submission of supporting documentation.

With respect to employees, the University treats Pregnancy or Related Conditions as any other temporary disability or condition for all job-related purposes, including, where appropriate, the provision of temporary adjustments.

## **RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY PROHIBITING DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT, AND RELATED RETALIATION**

### **Overview**

Holy Family University will review and respond to all Reports of Prohibited Conduct of violation of the Policy Prohibiting Discrimination, Harassment (“the Policy”). Upon receiving a Report, the Title IX Coordinator will promptly contact the Complainant to provide information, advise them of the availability of Supportive Measures and on- and off-campus resources, and discuss the procedural options available to the Complainant under this Policy, including the Informal Resolution Process and pursuing Grievance Procedures. The University will also assess whether there are any immediate threats to health or safety that must be addressed.

Importantly, if the alleged conduct, if established, would not constitute a violation of this Policy, the Title IX Coordinator will inform the Complainant of any other resources and options available, which may include referring the matter for action under a separate policy. Similarly, in cases in which the Respondent is not a University affiliate and the Grievance Procedures would not be available to the Complainant, the Title IX Coordinator will offer Supportive Measures and take other action as appropriate, if any, to address the behavior at issue.

At all times, the University will treat Complainants and Respondents equitably.

### **Initial Assessment and Intake**

Following receipt of a Report or a Complaint, the Title IX Coordinator engages in an initial assessment, typically within one to five business days. The Title IX Coordinator will:

- Assess the nature and circumstances of the Report, including whether the names and/or any other personally identifiable information for the Complaint, the Respondent, any witnesses, and/or any other individual with knowledge of the reported incident is provided, to facilitate appropriate follow-up.
- Assess the nature of the allegations to identify possible resolution options that may be available and/or to identify other University offices that may more appropriately address matters not related to Prohibited Conduct.

After receiving a Report of possible Prohibited Conduct, the Title IX Coordinator will promptly contact the Complainant, if one is identified or identifiable, to (1) discuss the availability of Supportive Measures; (2) ask about the Complainant’s wishes with respect to Supportive Measures; (3) explain that Supportive Measures are available with or without the filing of a Complaint; and (4) explain how to make a Complaint. The Title IX Coordinator will also provide the Complainant with a written explanation of available resources, options, and other important Policy information.

When a Complaint is made, the Title IX Coordinator will ensure the Respondent receives a written Notice of Allegations (see below). The Title IX Coordinator will also provide the Respondent with a written explanation of available resources, options, and other important Policy information.

### **Right to an Advisor**

The Parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings related to a Report or Complaint under the Policy. A Party is not *required* to be accompanied by an Advisor other than at a Hearing in cases involving allegations of Title IX Sexual Harassment. In such cases, a Party must be accompanied by an Advisor at any Hearing for the purposes of that Advisor conducting cross examination on the Party’s behalf. If the Party does not have an Advisor, the University will appoint an Advisor for these purposes, at no cost to the Party.

The Parties may select whoever they wish to serve as their Advisor as long as the Advisor is amenable and available.

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

Holy Family University may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

### **Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the University community. The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the University. The University will train the Advisors in the University pool; each such Advisor will be familiar with the University's resolution process.

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

### **Advisor's Role in Meetings and Interviews**

Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned. The University may, in its discretion, make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

### **Advisor Violations of Policy**

All Advisors are subject to the same policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Any Advisor who oversteps their role as defined by these Procedures will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. In the context of a Hearing, such measures may include exclusion of the advisor from the remainder of the Hearing and the appointment of an alternate, University-provided advisor.

Such measures are not appealable. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.



## Grievance Procedures

### University-Initiated Complaints

In the absence of a Complaint made by a Complainant, or in the event of the withdrawal of any or all of the allegations in a Complaint, the Title IX Coordinator will determine whether to initiate a Complaint. Such a determination is fact-specific and will be made in consideration of factors including, but not limited to:

- 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 Prohibited Conduct would occur if a Complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether, if established, the University would require the removal of the Respondent from campus or impose another Disciplinary Sanction to end the Prohibited Conduct and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee;
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing conduct, or conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Prohibited Conduct occurred; and
- Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating the Grievance Procedures.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of a Protected Class to its Education Program or Activity, the Title IX Coordinator may initiate a Complaint. Prior to doing so, the Title IX Coordinator will notify the Complainant and appropriately address reasonable concerns about their safety or the safety of others, including by providing Supportive Measures.

Regardless of whether a Complaint is initiated, the Title IX Coordinator will take other appropriate prompt and effective steps to ensure that Prohibited Conduct does not continue or recur within the University's Education Program or Activity.

### Dismissal

If the alleged conduct does not fit the definition of Title IX Sexual Harassment or did not occur in the United States, or the Complainant is not participating, or attempting to participate, in the University's Education Programs and Activities at the time the Complaint is filed, the University will dismiss the Complaint for Title IX purposes and treat the Complaint as one of Non-Title IX Sexual Harassment.

Any Complaint may also be dismissed, in whole or in part, if it is determined, at any time, that:

- The Respondent is not, or is no longer, enrolled at or employed by the University;
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Prohibited Conduct even if established;
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the Complaint or allegations within the Complaint; and/or
- The conduct alleged (after reasonable efforts to clarify have been made, as appropriate), if established, would not constitute Prohibited Conduct.

In the event of a dismissal, Supportive Measures may still be provided to the Complainant (and Respondent, if

already notified of the Complaint), and the Title IX Coordinator may refer the matter to another, appropriate office for review and response.

The University will provide written notice to the Complainant (and Respondent, if already notified of the Complaint) of the dismissal, the basis for the dismissal, and the right to appeal the dismissal using the process set forth below

### **Withdrawal of Complaint by Complainant**

As noted, a Complaint may be dismissed if the Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Complaint. If a Complainant requests dismissal, they can re-file the Complaint at a later date and request a continuation of the Grievance Procedures or voluntarily agree to an Informal Resolution Process.

The Title IX Coordinator will consider requests in light of the factors laid out above, relating to the Title IX Coordinator's decision to initiate a Complaint when the Complainant does not wish to do so ("University-Initiated Complaints"). If the Title IX Coordinator refuses a request by a Complainant to dismiss a Complaint, the Title IX Coordinator will notify the Complainant in writing of the decision and rationale.

### **Consolidation of Complaints**

In cases in which allegations of Prohibited Conduct are connected to other alleged misconduct by the Respondent which would ordinarily be addressed by another University policy, the University may, in its sole discretion, address all related conduct in a consolidated manner.

Similarly, the University may, in its sole discretion, consolidate Complaints of Prohibited Conduct brought against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party ("cross complaints"), where the allegations arise out of the same facts or circumstances.

### **Notice of Allegations**

The Grievance Procedures begin with the sending of a Notice of Allegations to the Complainant and Respondent. If the Complaint was signed by the Title IX Coordinator, the Complainant will still receive the Notice of Allegations, but is not required to participate in the investigation or related activities. The Parties will be notified by their institutional email accounts if they are a Student or employee, and by other reasonable means if they are neither.

### **Contents of Notice**

The Notice of Allegations will include the following:

- Information about the Informal Resolution Process and Grievance Process and a hyperlink to a copy of these Procedures.
- The identities of the Parties involved in the incident, if known; the conduct allegedly constituting Prohibited Conduct; and the date(s) and location(s) of the alleged incident, if known.
- Information about the University's prohibition on Retaliation.
- A statement that the Parties are entitled to an investigative report summarizing all Relevant evidence and, in cases involving Title IX Sexual Harassment, to inspect all directly related evidence .
- A statement that the Respondent is presumed not responsible for the alleged Prohibited Conduct unless and until a determination regarding responsibility is made at the conclusion of

the grievance process, after the Parties have had an opportunity to present Relevant (not otherwise impermissible) evidence to a trained, impartial decisionmaker.

- A statement that the parties may have an Advisor of their choice, who may be, but is not required to be, an attorney.
- Notice that knowingly making false statements or submitting false information is prohibited.
- Information about Supportive Measures.
- A statement regarding the preponderance of the evidence standard of proof.
- The range of possible Disciplinary Sanctions and Remedies.
- Information about the appeals process.

If the University has reasonable concerns for the safety of any person as a result of providing this Notice of Allegations, it may reasonably delay in providing it in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

### **Ongoing Notice**

If, in the course of an investigation, the University decides to investigate allegations of Prohibited Conduct that were not included in the original Notice of Allegations about the Respondent's alleged conduct toward the Complainant, or which are otherwise consolidated with the ongoing investigation, the University will provide notice of the additional allegations to the Parties whose identities are known.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

### **Acceptance of Responsibility**

At any time prior to the rendering of a finding as to responsibility by a decisionmaker, the Respondent may indicate that they do not wish to contest the disciplinary case against them and accept responsibility for all or part of the Prohibited Conduct alleged. In the event that a Respondent accepts responsibility, the Complainant will be notified in writing and, depending on the stage of the process, either the investigator(s) will issue a brief investigation report or the decisionmaker will issue a brief outcome determination summarizing the allegations and stating that the Respondent has accepted responsibility. The Complainant and Respondent may each submit, respectively, an impact statement or a mitigation statement to the Title IX Coordinator who will review the statements in connection with making a determination on appropriate Disciplinary Sanctions and/or Remedies (as described below). The Parties will thereafter be notified simultaneously in writing of the Remedies and Disciplinary Sanctions imposed and whether Remedies will be provided. This decision is not appealable and is final.

In the event that the Respondent accepts responsibility for only part of the Prohibited Conduct alleged, the remaining allegations will proceed to the decisionmaker for a finding, and Remedies and Disciplinary Sanctions for all the Prohibited Conduct at issue will be assigned at the conclusion of the matter in its entirety.

### **Investigation and Adjudication**

#### **Timeframe for the Investigation**

The investigation will be adequate, reliable, and impartial, and will be completed in a reasonably prompt timeframe, typically ninety (90) Days. Any timelines provided herein create no rights for the Parties and may be extended or changed by the University for good cause shown, in its sole discretion. In the event a deadline is extended or changed, both Parties will be notified in writing regarding the reason for and expected duration of, the delay.

Each Party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

### **Appointment of Investigators**

Once the decision to commence an investigation is made, and usually within two (2) business days of determining that an investigation will proceed, the University will charge trained Investigators with the task of gathering facts about the allegations raised in the Complaint, objectively evaluating the Relevance of all evidence, and preparing an investigative report which contains an accurate summary of the Relevant evidence. The University typically appoints a team of two Investigators.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another person will be assigned and the impact of the bias or conflict, if any, will be remedied.

The University reserves the right to exercise the utilization of external Investigators where it deems necessary or required. External Investigators will be held to the same training, bias, and conflict of interest standards.

### **Investigation Process**

The Investigator(s) will meet with each Party and Relevant witnesses. The Investigator(s) will, prior to any interviews or meetings with the Parties, provide written notice of the date, time, location, and purpose of the interview or meeting, with sufficient time for the Party to prepare for the interview or meeting. Each individual interviewed will have the opportunity to review a summary of their own statement prior to its inclusion in a draft investigative report and within a timeframe to be designated by the Investigator(s).

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

Each Party will have the equal opportunity to gather and present Relevant evidence (both inculpatory and exculpatory) and witnesses to the Investigator(s). However, the burden of gathering evidence, and satisfying the standard of proof, is on the University.

Providing information to the Investigator(s) through an interview, through the submission of documents, or both, is voluntary. The University does not compel Parties or witnesses to answer questions during the interview or submit documents, although all Parties and witnesses are encouraged to do so. A person's decision not to participate in the investigation, in whole or in part, will be documented in the investigative report.

An investigative report containing an accurate summary of the Relevant evidence collected during the investigation will be submitted to both Parties for their review and response. In cases involving allegations of Title IX Sexual Harassment, the Parties may also review and inspect any evidence collected that is directly related to the allegations raised in the Complaint, even if that evidence does not end up being relied upon by the University in determining responsibility. In such cases, evidence that is determined in the reasoned judgment of the Investigator to be directly related to the allegations in the Complaint, but not Relevant, will be included in the appendices to the investigative report. The Title IX Coordinator will also receive the draft investigative report and evidence for review and

comment.

The Parties will have ten (10) Days to provide written feedback on the draft investigative report to the Investigator(s), who will consider such responses before completing a final document. In the event that there are substantive changes as between the draft document and final version, the Parties will have five (5) Days to review any such changes and provide a final written response if they choose to do so.

## **Adjudication**

Upon completion of the investigation, the Title IX Coordinator reviews the investigative report and within five (5) Days determines whether the University will proceed to adjudication, or dismiss the Complaint, as described above. If the matter is submitted for adjudication, the adjudication process varies based on type of conduct at issue (*i.e.*, Sexual Misconduct or other forms of Prohibited Conduct).

Matters involving Complaints of Sexual Misconduct are adjudicated through the live hearing process described below, while Complaints of all other Prohibited Conduct are adjudicated through the non-hearing process described below.

## **Informal Resolution Process**

An Informal Resolution Process may be offered at any time before a determination of whether Prohibited Conduct occurred has been made. This includes upon receipt of a Report, or during the pendency of Grievance Procedures. In cases involving Title IX Sexual Harassment, a Complaint must be made in order to initiate the Informal Resolution Process. In all other cases, a Complaint need not be made in order to initiate the Informal Resolution Process.

An Informal Resolution Process is not permitted in cases involving allegations of Title IX Sexual Harassment by an employee-Respondent against a Student-Complainant.

Both Parties must agree to participate in the Informal Resolution Process, and the University must agree that it is appropriate. As participation is voluntary, the University does not require Parties to waive the right to an investigation and adjudication as a condition of (continuing) enrollment or (continuing) employment, or the exercise of any other right.

Before initiating an Informal Resolution Process, the University will notify the Parties of:

- the allegations;
- the requirements of the Informal Resolution Process;
- that each Party has the right to withdraw their agreement to participate in the Informal Resolution Process prior to agreeing to a resolution, and can at that time initiate or resume the Grievance Procedures, as applicable;
- that agreement to a resolution at the conclusion of the Informal Resolution Process precludes the Parties from initiating or resuming Grievance Procedures arising from the same allegations;
- any consequences resulting from participating in the Informal Resolution Process; and
- that records will be maintained as part of the Informal Resolution Process and circumstances under which such records could be shared in the event that the Informal Resolution Process is not completed and Grievance Procedures are initiated or resumed.

While every Informal Resolution Process will be tailored to the facts and circumstances of the individual case, in no case will the facilitator of the Informal Resolution Process be the same as the investigator or decisionmaker for Grievance Procedures involving the same matter.

## **Non-Hearing Adjudication Process**

### ***For all matters other than those involving allegations of Sexual Misconduct***

In all matters other than those involving allegations of Sexual Misconduct, a non-hearing adjudication process is used. In this process, the decisionmaker – who will be appointed by the Title IX Coordinator– will objectively evaluate all Relevant evidence, both inculpatory and exculpatory, and reach a determination regarding responsibility pursuant to the Standard of Proof.

The decisionmaker will assess the credibility of the Parties and witnesses, to the extent credibility is both in dispute and Relevant to evaluating the allegations. Any credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. The decisionmaker may accomplish this by holding meetings, in their discretion, with any Party or witness, at which questions are posed. These meetings are private and individual.

The decisionmaker will prepare a written determination, with rationale, and appeals information. This will typically be done within ten (10) Days of the completion of the final investigative report or the Parties' responses thereto, if applicable. In the event the Respondent is found responsible for a violation of this Policy, the determination will include the Disciplinary Sanctions imposed and/or whether any Remedies are provided, as appropriate. The written determination will be provided to the Parties simultaneously.

## **Live Hearing Adjudication Process**

### ***For all matters involving allegations of Sexual Misconduct***

In all matters involving allegations of Sexual Misconduct, a live hearing adjudication process is used.

For any adjudication via live hearing, the Parties will be notified in writing of the date, time, and location of the hearing. The hearing may be scheduled, in the University's discretion, to take place in-person or via an online platform through which each Party, their Advisors, witnesses, and the Decisionmaker can see and hear each other in real-time when the person is speaking. An audio or audiovisual recording, or transcript, of any live hearing will be made; no other recording or transcription is permitted. If the matter involves more than one Respondent, the Title IX Coordinator, in their discretion, may permit the hearing concerning each Respondent to be conducted either jointly or separately.

The Complainant and Respondent may submit, respectively, an impact or mitigation statement for consideration by the Title IX Coordinator as described below. Any such statements must be submitted to the Title IX Coordinator no later than one Day before the scheduled hearing date.

The Title IX Coordinator will select an appropriate Decisionmaker depending on whether the Respondent is an employee or a Student. The University reserves the right to exercise the utilization of an external Decisionmaker where it deems necessary or required.

The University may determine that multiple sessions or a continuance (i.e., a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

As a general rule, no new evidence or witnesses may be submitted during the live hearing. If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing. The Decisionmaker will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2)

whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence. If the Decision-maker answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

- Complainant and Respondent (The Parties)
- Hearing Facilitator
  - The Facilitator is the process administrator and has no decision-making role
  - The Facilitator assures the hearing is conducted according to outlined procedural expectations.
  - At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting Hearing Facilitator appointed by the Title IX Coordinator.
  - The Hearing Facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.
- The Title IX Coordinator, or their designee, may serve in this role.
- The Decisionmaker
  - The Decisionmaker will not have served as the Title IX Coordinator, Title IX investigator, or Advisor to any party in the case, nor may any member of the Decision-maker serve on the appeals body in the case.
  - The Decisionmaker will not have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the parties to the particular case.
  - The Decision-maker will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Complainants, and any technology to be used at the hearing.
  - The parties will have an opportunity to raise any objections regarding a Decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.
  - The University reserves the right to exercise the utilization of an external Decision-maker where it deems necessary or required.
- Advisors
- Witnesses

### **Non-Appearance of Parties or Witnesses; Refusal to Respond to Questions**

If a Party or witness, after being provided notice, does not appear at the hearing, the hearing will take place in their absence.

In cases involving Title IX Sexual Harassment, as described above, an Advisor must accompany each Party. If the Party does not have an Advisor, even in cases in which the Party does not appear at the hearing, the Party's Advisor must be present. If the Party does not have an Advisor, the University will appoint an Advisor at no cost.

In such cases where a Party or witness does not appear, or in the event that a Party or witness appears at the hearing but refuses to answer questions, the Decisionmaker will make its determination using the evidence available. The Decisionmaker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant (and not otherwise impermissible). The Decisionmaker must not draw an inference about whether Sexual Misconduct occurred based solely on a Party's or witness's refusal to respond to questions

### **Live Hearing Procedures**

At the hearing, the Decisionmaker has the authority to hear and make determinations on all allegations of Sexual Misconduct and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the Sexual Misconduct, even though those collateral allegations may not specifically fall within the Policy.

At the live hearing, the decisionmaker will question Parties and witnesses to adequately assess a Party's or witness's credibility, to the extent credibility is both in dispute and Relevant to evaluating the allegations of Sexual Misconduct. Any credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. The decisionmaker will accomplish this by asking the Parties and witnesses Relevant (not otherwise impermissible questions) and follow-up questions, including questions challenging credibility.

The Investigator(s) will present a summary of the final investigation report, including items that are contested and those that are not, and may be subject to questioning by the Decisionmaker. The Investigator(s) presence at the hearing will be limited to presentation of the investigation report and questioning by the Decision-maker and Parties. Neither the Parties nor the Decisionmaker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and Advisors and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

The Parties may propose questions to the decisionmaker that the Party wants asked of any Party or witness and have those questions asked. In cases involving allegations of Title IX Sexual Harassment only, the Parties' Advisors directly cross-examine the other Party or Parties and any witnesses (the parties may not directly ask questions).

The decisionmaker will determine whether a proposed question is Relevant (and not otherwise impermissible) before it is answered and will explain any decision to exclude a question as not Relevant or as otherwise impermissible. All Relevant (not otherwise impermissible) questions will be asked by a Party's Advisor, never by the Party themselves. Questions that are unclear or harassing of the Party or witness being questioned may be excluded, but prior to doing so, the Decisionmaker will give the Party posing the question the opportunity to clarify or revise the question.

For all live hearings, the procedure will be as follows:

- Decisionmaker will open and establish rules and expectations for the hearing;
- Investigator Presents the Final Investigation Report;
- Decision-maker may ask questions of the Investigator(s);
- The Parties will each be given the opportunity to provide opening statements;
- Decision-maker will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after the Decisionmaker conducts its initial round of questioning; During the Parties' cross-examination, the Decisionmaker will have the authority to pause cross-examination at any time for the purposes of asking their own follow up questions; and any time necessary in order to enforce the established rules of decorum.

### **Determination Regarding Responsibility**

The Decisionmaker will deliberate in a closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The Hearing Facilitator may be invited to attend the deliberation by the Decisionmaker, but is there only to facilitate procedurally, and not to address the substance of the allegations.

The Decisionmaker will objectively evaluate all Relevant evidence, both inculpatory and exculpatory, and reach a determination regarding responsibility pursuant to the preponderance of the evidence standard of proof, *i.e.*, whether it is more likely than not that the Respondent violated the Policy as alleged.



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

This written deliberation statement must be submitted to the Title IX Coordinator within seven (7) business days of the end of deliberations unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **Disciplinary Sanctions and Remedies**

When there is a finding of responsibility on one or more of the allegations, the Title IX Coordinator, or their designee, will promptly determine appropriate Disciplinary Sanction(s).

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and is not shared until that time.

When there is a finding of responsibility on one or more of the allegations, the Title IX Coordinator may then consider the previously submitted party impact and mitigation statements in determining appropriate Disciplinary Sanction(s).

Factors considered when determining a Disciplinary Sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for Disciplinary Sanctions to bring an end to the Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of Prohibited Conduct
- The need to remedy the effects of the Prohibited Conduct on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker

Disciplinary Sanctions for Student Respondents may include, but are not limited to:

- Warning or Reprimand: A formal warning about behavior and future conduct.
- Probation: The individual may be placed on probation, with specific conditions they must meet.
- Counseling or Training: Mandatory participation in counseling or educational programs about harassment and appropriate behavior.
- Loss of Privileges: Revocation of certain privileges, such as leadership positions or participation in certain activities.
- Suspension: Temporary removal from the institution or certain activities.
- Expulsion: Permanent removal from the institution.
- Restorative Actions: Measures aimed at repairing harm, such as mediation or community service.

Disciplinary Sanctions for Employee Respondents may include, but are not limited to:

- Verbal or Written Warning: A formal notice regarding unacceptable behavior.
- Mandatory Training: Required participation in harassment prevention and sensitivity training.
- Reassignment: Moving the individual to a different department or role.
- Demotion: Reduction in rank or job responsibilities.
- Suspension: Temporary removal from the workplace, with or without pay.
- Termination: Permanent dismissal from the job.
- Financial Penalties: Fines or reductions in pay or bonuses.

The University may continue Supportive Measures and may also provide Remedies to the Complainant or others, in the event their equal access to the University's Education Program and/or Activity was determined to have been limited or denied by Prohibited Conduct. Remedies are designed to restore or preserve that person's access and may include, but are not limited to, measures such as the following: providing a campus escort or allowing dedicated parking; making changes to class or work schedules; making adjustments to Student housing; providing services such as counseling; providing academic resources and support; providing reimbursement for professional counseling services; making tuition adjustments; and any other Remedies the University deems appropriate.

The Disciplinary Sanctions and Remedies will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

### **Notice of Outcome**

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means, as necessary. The Determination will include:

1. a description of the alleged Sexual Misconduct;
2. a description of the procedural steps taken from the receipt of the Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. findings of fact supporting the determination;
4. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility; and
5. appeals information.

All Respondents are expected to comply with the assigned Disciplinary Sanctions within the timeframe specified by the final Decisionmaker.

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

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

### **Timeline of Determination Regarding Responsibility**

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Holy Family University within ten (10) business days of the completion of the hearing.

### **Finality**

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

### **Appeals**

Any party may file a Request for Appeal, but it must be submitted in writing to the Title IX Coordinator within seven (7) business days of the delivery of the Notice of Dismissal or the Notice of Outcome. The Title IX Coordinator shall immediately provide notice of any appeal(s) to the other Party, who has seven (7) Days to submit a written response, limited to the grounds alleged in the appeal. The Title IX Coordinator will then submit the appeal and response, if any, to the appeals decisionmaker, who shall not be the same

individual who, as applicable, conducted the investigation, issued the dismissal, and/or made the finding of responsibility.

The Title IX Coordinator will designate a three-member appeal panel. The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Appeals are limited to the following grounds:

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

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

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other Party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker. The Appeal Panel's review will be based only on the written record, as well as any recordings or transcripts. Any alleged new evidence related to the grounds for the appeal should be appended to the appeal. The appeal is not an opportunity for a re-investigation or re-hearing. The Appeal Panel will submit a final written decision on the appeal, including a rationale, within ten (10) Days of receipt of the appeals materials, which will be simultaneously distributed to the Parties.

For an appeal related to the dismissal of a Complaint, the Appeal panel will decide whether to approve or reject the decision and, if rejected, return the Complaint to the Title IX Coordinator for further process. For an appeal of a finding of responsibility, the decisionmaker will decide whether to approve, reject, or modify the decision and/or Disciplinary Sanctions and/or Remedies, and may remand the case for further proceedings consistent with the appeals decision. The Appeal Panel's decision is final.

## **Recordkeeping**

Holy Family University will maintain for a period of seven years records of:

1. Reports; Complaints; and records documenting the response to Reports and Complaints, including any Supportive Measures provided, any emergency removals or administrative leave imposed, and any Informal Resolution Process or Grievance Procedures undertaken, including the resulting outcome (e.g., the result of any Informal Resolution Process, determinations of responsibility, Disciplinary Sanctions imposed on the Respondent, Remedies provided to the Complainant, appeals and the results of such appeals);
2. All materials used to provide required training;
3. Any audio or audiovisual recording or transcript required to be retained; and
4. Any other records documenting the actions taken to satisfy the University's obligations to prevent discrimination and ensure equal access for individuals due to Pregnancy or Related Conditions, including facilitating reasonable modifications for Students and facilitating temporary adjustments, leave, and/or lactation time and space for employees.

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

## **Revision of this Policy and Procedures**

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

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

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

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

## Appendix A: Glossary

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any. An advisor may, but does not have to be, an attorney. In cases involving Title IX Sexual Harassment, the Advisor conducts cross examination on behalf of the Party they are advising.
- *Applicant* means a person who is applying for admission as a student or other participant in the University's Education Program or Activity, and/or who is applying for employment at the University.
- *Complainant* means an individual who is alleged to have been subjected to conduct that could constitute Prohibited Conduct. In the event a Complaint is brought by the Title IX Coordinator, the individual affected by the alleged Prohibited Conduct that is the subject of the Complaint remains the Complainant, and the Title IX Coordinator does not become the Complainant. For ease of reference, "Complainant" will also be used throughout this Policy and related procedures to refer generally to an individual who is reported to have experienced Prohibited Conduct, even if they do not participate in any related process.
- *Complaint* means a document—including an electronic submission—filed by a Complainant with a signature or other indication that the Complainant is the person filing the Complaint, or a document signed by the Title IX Coordinator, alleging Prohibited Conduct against a Respondent and requesting initiation of the procedures in this Policy to investigate the allegation(s).

The Complainant need not be enrolled, employed, or otherwise participating or attempting to participate in any University Education Program or Activity at the time the Complaint is made, but must have been enrolled, employed, or otherwise participating or attempting to participate in a University Education Program or Activity at the time of the alleged Prohibited Conduct.

In all cases involving Title IX Sexual Harassment, if the Complainant is not enrolled, employed, or otherwise participating or attempting to participate in a University Education Program or Activity at the time of the Complaint, as described above, **the matter will be dismissed for Title IX purposes and the University will treat the Complaint as one of Non-Title IX Sexual Harassment.**

- *Consent* is defined as a freely and affirmatively communicated agreement to participate in sexual activity. Consent must be:
  - clear, knowing, and voluntary;
  - active, not passive; and
  - given by words or actions that create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

Consent is:

- Explicitly communicated;
- Reversible at any time;
- Informed;
- Voluntary; and
- Specific

Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.

Consent cannot be given:

- While asleep;

- When unconscious;
  - If physically or mentally helpless;
  - If it results from the threat or use of physical force, intimidation, or any other factor that negates free choice;
  - When unaware that sexual activity is occurring for any reason, including due to voluntary or involuntary alcohol or drug consumption;
  - While Incapacitated; or
  - If under the applicable legal age of consent.
- *Day* means a business day when the University is in normal operation.
  - *Disciplinary Sanctions* are consequences imposed on a Respondent following a determination that the Respondent is responsible for having committed Prohibited Conduct
  - *Education program or activity* includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the alleged Prohibited Conduct occurred, including any Holy Family on-campus premises any buildings or property owned or controlled by a recognized student organization. The University will address conduct contributing to a Hostile Environment based on a Protected Class even if the underlying conduct itself occurred outside the University's Education Program or Activity, including if it occurred outside the United States. For the avoidance of doubt, this Policy applies to conduct occurring online (via computer and internet networks or on digital platforms, including social media sites.
  - *Final Determination*: A conclusion by the preponderance of the evidence standard that the alleged conduct did or did not violate the Policy.
  - *Finding*: A conclusion by preponderance of the evidence standard that the conduct did or did not occur as alleged (as in a "finding of fact").
  - *Formal Grievance Process* and the *Grievance Procedures* mean a method of formal resolution designated by the University to address Prohibited Conduct.
  - *Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
  - *Incapacitation* is the temporary or permanent inability of a person to consent to sexual activity because the person is asleep, unconscious, otherwise unaware that sexual activity is occurring, involuntarily restrained, and/or mentally and/or physically helpless. This may be, but need not be, due to voluntary or involuntary drug or alcohol consumption. Incapacitation is a state beyond intoxication. A Respondent may not be found responsible for a violation of this Policy if the Complainant was incapacitated, but the Respondent did not know this, and a reasonable person, sober and exercising sound judgment, would not have so known. Being intoxicated or otherwise impaired by drugs or alcohol is not an excuse for engaging in conduct prohibited by this Policy and does not affect the requirement to obtain Consent.
  - *Parental, Family, or Marital Status*:
    - *Parental Status* refers to the status of a person who, with respect to another person under the age of 18, or who is 18 or older but incapable of self-care because of a physical or mental disability, is: a biological parent; adoptive parent; foster parent; stepparent; legal custodian or guardian; in loco parentis; or actively seeking legal custody, guardianship, visitation, or adoption.
    - *Family Status* refers to the configuration of a person's family or their role in a family.

- *Marital Status* refers to whether or not a person is married, including if they are divorced or widowed.

Importantly, Discrimination based on these statuses must be based on a Protected Class in order to constitute Discrimination (such as treating married women more or less favorably than married men, treating an unmarried mother more or less favorably than a married mother based on sex stereotypes, or treating a man who is married to a man more or less favorably than a woman who is married to a man).

- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Pregnancy or Related Conditions* refers to pregnancy, childbirth, termination of pregnancy, or lactation, including related medical conditions and/or recovery.
- *Prohibited Conduct* is an umbrella term including Discrimination, Harassment, Sexual Misconduct, and Retaliation.
- *Recipient* means a postsecondary education program that is a recipient of federal funding.
- *Relevant* means related to the allegations of Prohibited Conduct at issue and whether or not the alleged Prohibited Conduct occurred. The following evidence is impermissible (and will not be considered Relevant) even if it would otherwise be considered Relevant:
  - evidence protected under a privilege recognized by federal or state law, unless the person holding the privilege has waived it voluntarily;
  - records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to a Party or witness, unless the person has voluntarily consented, in writing, to the use of such records in the Grievance Procedures; and/or
  - evidence and questions about the Complainant's sexual interests or prior sexual conduct, unless such evidence and questions about prior sexual conduct is:
    - offered to prove that someone other than the Respondent committed the conduct alleged, or
    - if concerning specific incidents of prior sexual activity with the Respondent which are offered to prove Consent.
- *Remedies* are measures provided, as appropriate, to the Complainant and/or other person whose equal access to the University's Education Program or Activity was determined to have been limited or denied by Prohibited Conduct, in order to restore or preserve that person's access to the University's Education Program or Activity.
- *Report* means any notice to the Title IX Coordinator of conduct that may constitute Prohibited Conduct. A Report may come from any individual, not just a Complainant. Not every Report is or will result in a Complaint.
- *Respondent* means an individual who is alleged to have violated this Policy. In the event that a Complaint alleges that a University policy or practice discriminates on the basis of Protected Class, the University is not considered a Respondent. In such cases, the University will follow this Policy, including the Grievance Procedures, although the University will, necessarily, not be entitled to certain procedural

rights and steps afforded to individual Respondents. In the event a Complaint against an individual Respondent is based on actions the Respondent took in accordance with a University policy or practice, the Complaint may, in the University's sole discretion, be amended to substitute the University as Respondent. This determination will be made after a consideration of factors including, but not limited to, whether the individual was, in fact, following the University policy or practice; what actions the individual took; and whether the individual could be subject to Disciplinary Sanctions

- *Student* means a person who has gained admission to the University.
- *Title IX Team* refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.