

**Flint Student Procedures**  
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## **OVERVIEW**

This Appendix describes the procedures the University uses when it receives a report of possible Prohibited Conduct by a Student (referred to as Student Procedures or Procedures). These Procedures will apply to the University of Michigan – Flint.

These Procedures should be read in conjunction with the Policy on Sexual and Gender-Based Misconduct (Policy). The University uses these Procedures to address allegations of Prohibited Conduct and to impose sanctions, as may be appropriate. For information regarding how to make a report or available resources, please refer to [LINK to Section VII and Section V, respectively, of the Policy](#).

Capitalized terms used and not otherwise defined in these Procedures are defined in the Policy.

### **I. OTHER POTENTIALLY RELEVANT POLICIES AND PROCEDURES**

At all times, it is within the University’s discretion to determine which policies and procedures apply and under which policy or policies action may be taken. Some Prohibited Conduct may result in separate investigations and potential separate and additional sanctions under multiple University policies. A list of the potential policies and procedures that may apply can be found in [LINK to SPG \[ADD\]](#).

### **II. RESOLUTION OPTIONS**

As set forth in more detail below, the University generally uses two processes to resolve reports of Prohibited Conduct under this Policy: (1) investigative resolution, which involves an investigation, a hearing, and, if applicable, sanctions, and an appeal; and (2) adaptable resolution, which includes restorative options. Both investigative resolution and adaptable resolution are described in more detail below in [Section VII](#) and [Section VIII](#), respectively.

The University will strive to complete an investigative resolution, which begins with the determination that an investigation will be opened and continues through the completion of the investigation, hearing, and sanction, if any, within 90 calendar days. This time frame may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation; comply with a request by law enforcement for temporary delay to gather evidence; accommodate the availability of witnesses; account for University breaks or vacations; account for case complexities (including the number of witnesses and volume of information provided by the parties), or for other legitimate reasons. If one or both of the parties pursue an appeal, the University will strive to complete a resolution, meaning the period from commencement of an investigation through completion of the appeal, within 120 calendar days.

The University also strives to complete the adaptable resolution process within 90 calendar days, using the same parameters outlined above.

To the extent the University exceeds any of the time frames set forth in the Procedures, the Institutional Equity Specialist (IES),<sup>1</sup> or in the case of adaptable resolution, the Ann Arbor Office of Student Conflict Resolution (OSCR), will notify the parties in writing of any extension of this time frame and the reason for such extension.

### **III. INITIAL ASSESSMENT, INTAKE, AND ROLE OF THE INSTITUTIONAL EQUITY SPECIALIST**

After receiving a report of Prohibited Conduct committed by a Student, the IES will make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. An initial assessment typically will be made within 72 hours after receiving a report of Prohibited Conduct. An exception to the 72 hours may be needed in cases where the Complainant requests anonymity, that investigative or adaptable resolution not be pursued, or that no disciplinary action be taken. In those cases, the IES will consult with the Title IX Coordinator<sup>2</sup>, typically within one week after the report of Prohibited Conduct was made, or within one week of the Complainant's request described above.

#### **A. Complainant**

As part of the initial assessment, the IES will assess the Complainant's safety and well-being, and offer the University's support and assistance; assess the nature and circumstances of the report, including whether it provides the names and/or any other information that personally identifies the Complainant, the Respondent, any witness, and/or any other individual with knowledge of the reported incident; and ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is a minor (under 18 years old), take all necessary actions based upon the facts and circumstances of the case, including contacting the appropriate child protective service agency, if required by law. The IES will also ensure that the Complainant receives a written explanation of available resources and options, including the following:

- Support and assistance available through University resources, including the Complainant's option to seek Interim Measures, including Supportive Measures, regardless of whether they choose to participate in a University or law enforcement investigation, and/or Protective Measures, when the University pursues an investigation;
- The Complainant's option to seek medical treatment and information on preserving potentially key forensic and other evidence;

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<sup>1</sup> IES will typically serve as the investigator, although the investigator may be any appropriately trained individual, as determined by the Title IX Coordinator or designee. For ease of reference, IES also means any investigator as determined by the Title IX Coordinator or designee.

<sup>2</sup> All references in these Procedures to actions that may be taken by the Title IX Coordinator may also be carried out by a designee of the Title IX Coordinator, who may be the IES.

- The University’s procedural options including investigative and adaptable resolution;
- The Complainant’s right to an advisor of the Complainant’s choosing;
- The University’s prohibition against Retaliation of the Complainant, the Respondent, the witnesses, and the reporting parties, and that the University will take prompt action when Retaliation is reported, and how to report acts of Retaliation; and
- The opportunity to meet with the Title IX Coordinator in person to discuss the Complainant’s resources, rights, and options.

## **B. Respondent**

When the IES decides to initiate an investigative resolution, impose Protective Measures, or take any other action that impacts a Respondent, the IES will ensure that a Respondent is informed of:

- The nature of the investigation, including the identities of the parties (if known), a concise summary of the conduct at issue, and potential Policy violations;
- The immediate support and assistance available through University resources;
- The Respondent’s right to an advisor of the Respondent’s choosing;
- The University’s prohibition against Retaliation of the Complainant, the Respondent, the witnesses, and the reporting parties, and that the University will take prompt action when Retaliation is reported, and how to report acts of Retaliation; and
- The opportunity to meet with the Title IX Coordinator in person to discuss their resources, rights and options.

Either during the intake and initial assessment or as part of the University’s actions following an initial assessment, the University will offer a meeting, to occur in person if practicable and desired by the Complainant, with the Complainant to discuss the University’s procedural options, including investigative or adaptable resolution. This initial meeting will be conducted by the IES.

The IES will explain all options under the investigative resolution and communicate various information to the Complainant regarding adaptable resolution procedures. The IES will facilitate logistics relating to any investigative or adaptable resolution.

In the event the Complainant elects investigative resolution, the University will offer a meeting, to occur in person if practicable and desired by the Respondent, with the Respondent to discuss the University's procedural options prior to the IES conducting an interview of the Respondent.

The IES is responsible for providing the Complainant and the Respondent the investigation report. The Dean of Students Office (DOS) will coordinate all hearing logistics; provide the notice of hearing outcome to the parties; coordinate all sanctioning logistics, including the exchange of any sanctioning input statements; provide the sanctioning determination to the parties; facilitate an appeal; and provide the decision of the external reviewer to the parties. The IES and DOS are neutral and neither is an advocate for either the Complainant or the Respondent at any point in the process.

When the Complainant and the Respondent agree to participate in an adaptable resolution, OSCR is responsible for ensuring timely facilitation of the agreed upon type of adaptable resolution, including all logistics (such as when, where, and how the adaptable resolution process will take place).

#### **IV. IMPLEMENTATION OF SUPPORTIVE AND PROTECTIVE MEASURES (ALSO KNOWN COLLECTIVELY AS INTERIM MEASURES)**

Interim Measures, including an explanation and examples of Supportive and Protective Measures, are described in [LINK to Section VI of the Policy](#).

During the initial meetings with the parties and witnesses, the IES will discuss Interim Measures. If an individual is interested in an Interim Measure(s), the IES will determine what Interim Measures are possible and bring a recommendation to the Title IX Coordinator for approval. Once an Interim Measure(s) is approved, the IES coordinates and notifies the parties or the affected individuals in writing of the Interim Measure(s).

Implementation of Supportive or Protective Measures should not be interpreted to suggest that the University has made any decision about the merits of the report.

The University will keep private any Supportive or Protective Measures provided under this Policy to the extent practicable, and will promptly address any violation of Protective Measures under this Policy and Procedures.

Supportive or Protective Measures or both may be kept in place beyond the resolution of the matter.

The Complainant or the Respondent may present a written challenge regarding the need for or the adequacy of Supportive or Protective Measures to the Title IX Coordinator. Once a written challenge of Interim Measures is received, the Title IX Coordinator will typically schedule a meeting with the party challenging the Interim Measures, hear the party's concerns, conduct any necessary follow-up, and render a decision regarding the need for or the adequacy of the Supportive or Protective Measures within 72 hours of the meeting.

**A. Supportive Measures**

The University may implement Supportive Measures for the Complainant, the Respondent, witnesses, and other members of the University community. Supportive Measures are voluntary and may be modified or discontinued at any time at the request of the recipient.

**B. Protective Measures**

Protective Measures are available for the Complainant, witnesses, and other members of the University community and typically include action by the University involving a Respondent. Failure to comply with these measures may result in a separate violation under this Policy. The nature of the Protective Measures is based upon the facts reasonably available at the time of the decision to implement the Protective Measures.

Protective Measures are not imposed mechanically, and are instead selected based on an individualized inquiry of the facts and circumstances of each individual case and Student. They are designed to balance the protection of the parties with minimizing the impact on each Student's ability to access the University's programs and activities.

Complainants or others should report information concerning a violation of Protective Measures to the IES as soon as possible, and should dial 911 in situations of immediate health or safety concern.

**C. Emergency or Interim Suspension**

If a Respondent's actions pose an immediate danger to any member of the University Community or a participant in a University program or activity, the Vice Chancellor for Student Affairs (VCSA), or designee, may immediately suspend the Student pending a meeting. Except in extraordinary circumstances, that meeting will be scheduled as soon as possible, typically within 2 calendar days. At this meeting, the Respondent will be informed of the nature of the alleged violation, presented with available evidence, and given the opportunity to make a statement and present evidence. If the emergency suspension remains in place following the meeting, the Respondent will be offered a hearing option as soon as practicable, typically within ten calendar days, pursuant to the [Student Code of Conduct](#).

**V. UNIVERSITY ACTIONS FOLLOWING AN INITIAL ASSESSMENT**

Upon completion of an initial assessment, the IES will consider the range of procedural options based upon the information available at that time, including:

- **Investigative resolution:** includes in the following order (a) an investigation by the IES resulting in a written report containing a summary of the evidence; (b) a hearing, to determine by a preponderance of the evidence if there has been a Policy violation; (c) the imposition of sanctions and other appropriate remedies if there has been a finding; and (d) the opportunity to challenge the outcome of the hearing and/or the sanction through an appeal;
- **Adaptable resolution:** is typically a facilitated or structured process between the Complainant, the Respondent, and/or other affected community members that seeks to identify and meet the needs of the Complainant while providing an opportunity for the Respondent to repair harm (to the extent possible) experienced by the Complainant and/or the University community. Adaptable resolution is voluntary and typically does not include an investigation, hearing, or disciplinary action against a Respondent (including transcript notations), but may include imposing appropriate and reasonable remedies, including education and training, as agreed to by the parties; and
- **Additional remedies:** may include training and other educational measures for members of the University Community.

Detailed information regarding investigative resolution, adaptable resolution, and additional remedies is set forth below in [Sections VII, VIII, and IX](#) respectively.

The IES's course of action will be guided by: (1) whether the Complainant wishes to pursue investigative or adaptable resolution; (2) whether the Complainant requests anonymity, that an investigative resolution not be pursued, and/or that no disciplinary action be taken; (3) the availability of information or evidence suggesting that a policy violation may have occurred; and (4) the University's Title IX obligation to investigate or otherwise determine what happened and take corrective action as appropriate to eliminate, prevent and address the effects of the Prohibited Conduct.

In all cases, the final decision on whether, how, and to what extent the University will proceed and whether other measures will be taken in connection with any report of possible Prohibited Conduct rests solely with the IES, in consultation with the Title IX Coordinator.

#### **A. Where the Complainant Wishes to Pursue Investigative Resolution**

In every case in which the Complainant reports Prohibited Conduct and requests an investigation and the University has disciplinary authority over the alleged Respondent, the IES will conduct an initial assessment to determine if investigative resolution is appropriate under the Policy. If investigative resolution is deemed appropriate, the University will initiate an investigation.

**B. Where the Complainant Requests Anonymity, That an Investigation not be Pursued, and/or That no Disciplinary Action be Taken**

A Complainant may request that their name or other personally-identifiable information not be shared with a Respondent, that no investigative resolution be pursued, or that no disciplinary action be taken. In these instances, before taking any further investigative steps, the University will forward the Complainant's requests, along with all available information about the report gathered during the initial assessment, to the Title IX Coordinator, described in Section VI below.

**C. Where the Complainant Requests the Matter be Resolved Through Adaptable Resolution**

A Complainant may request to the IES that the reported matter be resolved through the adaptable resolution process. In these instances, the IES will consult with the Title IX Coordinator to determine whether that approach is appropriate and whether the University needs to take additional actions. If the matter is appropriate to be resolved through an adaptable resolution process, the Title IX Coordinator will refer the matter to the appropriate office to implement.

**VI. REQUESTS FOR ANONYMITY OR NO INVESTIGATION/HEARING**

If a Complainant requests anonymity, that an investigation/hearing not be pursued, or that no disciplinary action be taken, the IES will consider the Complainant's request and will consult with the Title IX Coordinator to determine the outcome of Complainant's request.

The IES will balance the Complainant's request against the following factors in reaching a determination on whether the request can be honored:

- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- The respective ages and roles of the Complainant and Respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of other Prohibited Conduct or other misconduct by the Respondent;
- Whether the report reveals a pattern of misconduct related to Prohibited Conduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;

- The Complainant's interest not to pursue an investigation or disciplinary action and the impact of such actions on the Complainant;
- Whether the University possesses other means to obtain relevant evidence;
- Due process considerations for both the Complainant and the Respondent;
- The University's obligation to provide a safe and non-discriminatory environment; and/or
- Any other available and relevant information.

The Title IX Coordinator will provide guidance to the IES such as:

- Their individual and collective perspectives on whether, how, and to what extent, the University should further investigate the report of Prohibited Conduct;
- What steps may be possible or appropriate when a Complainant and/or Respondent is unknown or the Complainant requests anonymity and/or not further investigative or facilitate resolution; and/or
- What other measures or remedies might be considered to address any effects of the reported behavior on the campus community.

The IES, in consultation with the Title IX Coordinator, will make a determination regarding the appropriate manner of resolution under the Policy. The University will seek resolution consistent with the Complainant's request, if it is possible to do so, based upon the facts and circumstances, while also protecting the health and safety of the Complainant and the University community.

**A. Determination That a Complainant's Request(s) Can be Honored**

Where the IES determines that a Complainant's request(s) can be honored, the University may nevertheless take other appropriate steps to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the Complainant and the University community. Those steps may include offering appropriate remedial measures to the Complainant, providing targeted training and prevention programs, and/or providing or imposing other remedies. The Complainant may later request to pursue adaptable resolution (if available) or investigative resolution under this Policy. The IES also may re-open and pursue a report under the Policy and Procedures if any new or additional information becomes available.

## **B. Determination That a Complainant's Request(s) Cannot be Honored**

In those instances, when the IES determines that the University must proceed with an investigation/hearing despite the Complainant's request that it not occur, the IES will notify the Complainant that the University intends to initiate investigative resolution, but that the Complainant is not required to participate in the investigation/hearing or in any of the actions taken by the University.

The University's ability to fully investigate and respond to a report may be limited if the Complainant requests anonymity or declines to participate in an investigation/hearing. The University will, however, pursue other steps to limit the effects of the Prohibited Conduct and prevent its recurrence.

## **VII. INVESTIGATIVE RESOLUTION**

A flowchart depicting the investigative resolution process can be found [here](#).

### **A. Core Principals**

- 1. Presumption of Good Faith Reporting.** The University will take appropriate steps to assure that a person who in good faith reports, or participates in the resolution of, an allegation of Prohibited Conduct (reporter, Complainant, witness) will not be subjected to Retaliation. The University presumes that reports of Prohibited Conduct are made in good faith. A finding that the behavior at issue does not constitute a violation of this Policy or that there is insufficient evidence to conclude that the incident occurred as reported does not mean that the report was made in bad faith. However, a person who knowingly and intentionally files a false complaint, or provides false information in the resolution of an allegation, under the Policy may be subject to University discipline.
- 2. Presumption of No Violation and Standard of Proof.** The Respondent is presumed not to have violated the Policy unless and until a preponderance of the evidence supports such a finding. This presumption may be overcome only where the hearing officer concludes that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the Respondent engaged in inappropriate behavior or violated the Policy. A preponderance of the evidence means that it is more likely than not, based on all the relevant evidence and reasonable inferences drawn from the evidence, that the Respondent violated this Policy.
- 3. Participation by the Parties and Witnesses Is Voluntary.** The Complainants, the Respondents, or the witnesses may choose to participate or decline to participate in the investigative resolution process.

However, even if a Complainant or a Respondent declines to participate, the University may deem it necessary to continue to investigate the report. Non-participation by a party or witness may impact the outcome of the investigative resolution.

4. **Expectation of Complainant, Respondent, and Witnesses.** The Complainant, the Respondent, the witnesses and others sharing information in the process are expected to provide all relevant information at the time of their interview and upon reviewing the draft summary of their statement, and to be truthful throughout the process.
5. **Acceptance of Responsibility.** The Respondent may, at any time in the investigation or hearing process, elect to resolve the resolution process by accepting responsibility for the Prohibited Conduct, in which case the IES will issue a brief investigation report or the hearing officer will issue a brief outcome determination summarizing the allegations and stating that the Respondent has accepted responsibility, and refer the matter to the Assistant Director for Community Standards and Ethical Development (Sanctioning Agent) to determine the appropriate sanctions.
6. **Advisers.** Throughout the investigative resolution and hearing process, a Complainant and a Respondent may have an adviser of their choice. An adviser is an individual chosen by a party to provide support and guidance during the review of a report of Prohibited Conduct under this Policy. An adviser may not be a witness or otherwise have any conflicting role in the process. An adviser may be an advocate and/or an attorney.

The University (including any official acting on behalf of the University such as the hearing officer or external reviewer) has the right at all times to determine what constitutes appropriate behavior on the part of an adviser and to take appropriate steps to ensure compliance with the Policy.

7. **Prior Sexual Interactions between the Complainant and the Respondent.** Prior sexual contact between a Complainant and a Respondent will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history between the parties is generally not relevant to the determination of a Policy violation and will be considered only in limited circumstances. For example, if the question being determined is whether consent was given through mutually understandable actions (rather than words), information about prior sexual contact, in the totality of the evidence considered, may be helpful in understanding the manner and nature of sexual communication between the two persons. This information may, therefore, be relevant in determining whether consent was sought and given during the incident in question.

However, and as noted above, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act. Consent on one occasion does not, by itself, constitute consent on a subsequent occasion. The investigator or hearing officer will determine the relevance of this information and both parties will be informed via inclusion of such information in the preliminary report or outcome determination if evidence of prior sexual contact is deemed relevant.

In addition, and as required by applicable state and federal law, other prior sexual conduct of the Complainant or the Respondent may be relevant only in certain, very limited circumstances.

8. **Prior or Subsequent Conduct of the Respondent.** Prior or subsequent conduct of the Respondent will never be used to prove character, but may be considered for other purposes, such as determining pattern, knowledge, intent, or the Respondent's reasons for taking the action. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation.

The relevance of pattern evidence will be determined based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. The investigator or hearing officer will determine the relevance of this information and the parties will be informed via inclusion of such information in the preliminary report or outcome determination if evidence of prior or subsequent conduct is deemed relevant.

9. **Witnesses.** Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character.

Witnesses will have the opportunity to discuss the investigation process and participate in an interview. Following the interview, a witness will be provided with a draft summary of their statement so that they have the opportunity to comment on the summary and ensure its accuracy and completeness. The witness's feedback may be attached or otherwise incorporated into the final investigative report as deemed relevant by the investigator.

Where witnesses are interviewed as part of the investigation, the investigator will produce to the Complainant and the Respondent for their

review and comment a written summary of each witness' interview, which will identify the witness by name and relationship to each person and the University. This information will be provided in the preliminary investigation report.

## **B. Investigation**

An investigation will afford both the Complainant and the Respondent an opportunity to submit information and other evidence and to identify witnesses. During an investigation, the investigator typically will meet separately with the Complainant, the Respondent, and the pertinent witnesses and offer the parties the equal opportunity to submit and/or identify related and relevant information or evidence. Following the interview, each party will be provided with a draft summary of their statement so that they have the opportunity to comment on the summary and ensure its accuracy and completeness. The parties' feedback may be attached or otherwise incorporated into the final investigative report to the extent deemed relevant by the investigator.

The Complainant or the Respondent may, under limited and extenuating circumstances, make a request to the investigator to submit a written statement instead of participating in an interview. The Complainant or the Respondent also may provide other supporting materials relevant to the matter. However, it is the responsibility of the University, not the Complainant or the Respondent, to gather relevant evidence to the extent reasonably available.

- 1. Role of Investigator.** Whenever an investigative resolution is initiated, the IES will typically serve as the investigator. The investigator must be impartial, free of any actual conflict of interest, and have specific and relevant training and experience.

A Complainant or a Respondent who has concerns that the assigned investigator cannot conduct a fair and unbiased review (e.g., has a personal connection with one of the parties or witnesses, etc.) may report those concerns to the Interim OIE Director, identified below, who will assess the circumstances and determine whether a different investigator should be assigned to the matter.

Jeffrey Frumkin, Interim OIE Senior Director & Deputy Title IX  
Coordinator

[institutional.equity@umich.edu](mailto:institutional.equity@umich.edu)

(734)763-0235 (telephone)

(734)647-1388 (tty)

- 2. Notice of the Investigation.** Before any interview of the Respondent, the Respondent will be informed in writing of the initiation of the

investigation. The written information will include the identities of the parties, if known, a concise summary of the conduct at issue (including when and where it occurred, if known), and potential Policy violations. The Respondent will be informed in writing if, during the investigation, additional information is disclosed that may also constitute Prohibited Conduct under the Policy.

3. **Evidence.** As the investigator is gathering relevant evidence, each person will be given the opportunity to identify witnesses, provide other relevant information, such as documents, communications, photographs, and other evidence, and suggest questions to be posed to the other party or witness. Although the investigator need not do so, the investigator may draw a negative inference from a refusal to provide information that the investigator knows exists.

The investigator will review all information identified or provided by the parties as well as any other evidence they obtain and will determine the appropriate relevance, and probative value of the information developed or received during the investigation. Evidence obtained as part of the investigation will be shared with the parties for their review and comment, as described below.

The investigator may consult experts who have no connection to the reported incident when expertise on a specific topic or submitted evidence is needed to gain a fuller understanding of the relevance or value of the evidence or the issue at hand. In instances where an expert is consulted, the investigator, in consultation with the Title IX Coordinator, will determine whether the expert has any conflicts of interest or bias. The expert's identity will be shared with both parties so that they may also have the opportunity to identify any risk of such conflicts or bias for assessment by OIE.

4. **Consolidation of Investigation.** The IES has the discretion to consolidate multiple reports into a single investigation if evidence relevant to one incident might be relevant to the others. Consolidation might involve a single or multiple Complainants, a single or multiple Respondents, and conduct that is temporally or logically connected. If investigations involving multiple Complainants and/or multiple Respondents are consolidated, each party will have access to all of the information being considered; including as provided by all involved Complainants, all involved Respondents, and all involved witnesses.
5. **Coordination with Law Enforcement.** Where the University is made aware that there is a concurrent criminal investigation, the investigator will inform the Department of Public Safety (DPS) that a University investigation is also in progress; ascertain the status of the criminal

investigation; and determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

At the request of law enforcement, the University may agree to temporarily defer part or all of the investigative resolution until after the initial evidence-gathering phase of the law enforcement investigation is complete.

In some instances, aspects of a criminal investigation may be available and relevant to the University's process; however, standards for criminal investigations are different than the standards for a violation of this Policy. Therefore, the University will not base its decisions under this Policy solely on law enforcement determinations and/or the outcomes of any criminal proceedings.

6. **Time Frame for Completion of Investigation.** The University will strive to complete the investigation, meaning the period from commencement of an investigation through to completion of an investigation report, within 55 calendar days. The commencement of an investigation begins with the determination that an investigation will be opened, typically either the date of the Complainant's interview or such other time as the Complainant provides sufficient information for the investigator to proceed with an investigation, and requests that an investigation be opened, or such time as the investigator determines, in consultation with the Title IX Coordinator, that an investigative resolution will be opened.
7. **Preliminary Investigation Report.** After the Complainant and the Respondent have had the opportunity to comment on their own statement and to identify witnesses and other potential information, and the investigator has completed witness interviews and the gathering of evidence, the investigator will prepare a preliminary report.

The investigator will provide the parties with the preliminary report, which will include, as applicable, the Complainant's statement, the Respondent's statement, each witness' statement and either a copy or written summary of any other information the investigator in their discretion deems relevant. At the same time, the investigator will also provide each party the evidence obtained as part of the investigation. The evidence will be provided in an electronic format that restricts the parties from downloading or copying the evidence.

The Complainant and the Respondent will generally have one opportunity to concurrently review the preliminary report and provide feedback in response. The Complainant and the Respondent must submit any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other

information they deem relevant to the investigator, up to 15 pages of comments, additional documents or other evidence, within 10 calendar days after it is sent to them for review. The investigator may, in its discretion, waive the page limit on the feedback the parties can provide the investigator, for good cause, if requested and approved before the feedback is submitted. The parties' feedback will be attached to the final investigation report.

Generally, only information that is provided to, or otherwise obtained by, the investigator during the course of the investigation may be considered in the determination of whether a Policy violation occurred. Any and all information for consideration by the hearing officer must be provided to the investigator prior to the final investigation report and will not be allowed during the hearing, unless it can be clearly demonstrated that such information was not reasonably available to the parties at the time of the investigation or that the evidence has significant relevance to a material fact at issue in the investigation. In any event, any evidence to be considered by the hearing officer will be made available to the parties for their review and comment in advance of the hearing. If, after the final investigation report is issued, a party provides or identifies evidence that they did not previously provide or identify despite that evidence being reasonably available to them during the investigation process, the hearing officer may, at their discretion, draw a negative inference from the party's delay in providing or identifying the evidence.

8. **Final Investigation Report.** After receiving any comments submitted by either party, or after the 10 calendar day comment period has lapsed without comment, the investigator will address any relevant issues identified by the Complainant and/or the Respondent, and as appropriate, pursue any additional investigative steps as needed and issue a final investigation report.

The investigator's final written report will contain all information from the preliminary report, as supplemented by the relevant feedback submitted (as determined by the investigator), and any additional information gathered.

The investigator's report must be reviewed and approved by the Title IX Coordinator before it is issued.

9. **Referral to Hearing.** The investigator will provide the final investigation report to the parties, hearing officer, and Sanctioning Agent simultaneously, along with information regarding the hearing process, as described below. The parties will have 10 calendar days to review the final investigation report and provide a response to the hearing officer.

If the University learns that the Complainant, the Respondent, or a material witness will not attend the hearing, the Title IX Coordinator will determine in their discretion whether the University will proceed with the hearing.

### C. **Hearing**

The hearing is an opportunity for the parties to address the hearing officer in person and to question the other party and/or witnesses and for the hearing officer to obtain information following the investigation and to make a determination of whether a Policy violation occurred.

The University expects that both the Complainant and the Respondent will attend a pre-hearing meeting and the hearing, but neither party is required to participate in the pre-hearing meeting or the hearing.

1. **Hearing Officer.** The hearing will be conducted by a hearing officer, who is selected by the Office of the Vice President and General Counsel (OGC) in consultation with the Vice President of Student Life (VPSL). The hearing officer will receive annual training regarding the University's policies and procedures, the handling of Student sexual misconduct cases, and other relevant issues.

The hearing officer must be impartial and free from bias or conflict of interest. The parties will be informed of the identity of the hearing officer and vice versa before the pre-hearing conference. If the hearing officer has concerns that he or she cannot conduct a fair or unbiased review, the hearing officer may report those concerns in advance of the pre-hearing conference to the Title IX Coordinator and a different hearing officer will be assigned. Similarly, a Complainant or a Respondent who has concerns that the assigned hearing officer cannot conduct a fair and unbiased hearing, may report those concerns to the Title IX Coordinator who will assess the circumstances and whether a different hearing officer should be assigned.

The hearing officer has broad discretion to determine the hearing format. The hearing officer is responsible for maintaining an orderly, fair, and respectful hearing and has broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending person.

The Complainant or the Respondent may make requests to the DOS related to the format or the nature of their participation in the hearing. The DOS will work with the hearing officer to accommodate reasonable requests, including the option for the hearing to occur with the parties located in separate rooms with technology enabling the decision-maker

and the parties to simultaneously see and hear the party answering questions.

2. **Scheduling.** When the IES issues the final investigation report to the Complainant and Respondent, the IES forwards a copy of the investigation report to the hearing officer. The DOS will schedule the parties' pre-hearing meetings and a hearing date, time, and location, and notify the parties of the same. The hearing officer will strive to complete a hearing within 14 calendar days from the issuance of the investigation report.
3. **Record of Hearing.** The hearing and any pre-hearing meetings are closed to the public. The Complainant and the Respondent are each allowed to have one adviser of their choice present throughout the hearing process. The University shall keep an official transcript of the hearing. Any other recording is prohibited. No camera, TV, or other equipment, including cellphones, will be permitted in the hearing room except as arranged by the University.
4. **Pre-hearing Meeting.** The DOS will convene a separate pre-hearing meeting with each of the parties and the hearing officer to plan for the hearing and to identify the advisers of the parties, if any; to review the complaint and issues of interest to the hearing officer and parties; to describe the procedures to be followed at the hearing; to discuss and determine whether the Sanctioning Agent has a conflict; to identify the names of witnesses that will be asked to appear; and to answer any other questions or share information prior to the hearing. The hearing officer will also discuss the time allotted for the hearing and any time limitations. The hearing officer will provide all relevant and significant information to the other party. If either party does not attend the pre-hearing meeting, the hearing officer will determine whether and how that absence affects the ability of the University to move forward with the hearing, as well as the hearing schedule.

The parties and the hearing officer are expected to identify witnesses for the hearing by the pre-hearing meeting.

5. **Adaptable Resolution.** The University permits adaptable resolution of complaints whenever requested and appropriate, including prior to the hearing. During the pre-hearing conference and up to 48 hours prior to a hearing, both parties must agree to participate before adaptable resolution will be used, and both the Complainant and the Respondent have the option to voluntarily consent to engage in one of the facilitated processes described in [Section VIII](#), with the approval of the Title IX Coordinator.
6. **Case Presentation.** The hearing is not intended to be a repeat of the investigation. The hearing officer will be well-versed in the facts of the

case based upon the investigation report and the parties' responses to the investigation report, if any. The Complainant and the Respondent and their advisers, the Sanctioning Agent, and the hearing officer will attend the hearing. Other University administrators may attend at the request of or with the prior approval of the hearing officer, but the parties will be notified in advance of anyone who will be in attendance.

The hearing officer has broad discretion to decide upon a format for the hearing and to determine which witnesses are relevant to their outcome determination. A hearing officer may decline to hear from a witness where they conclude that the information is not necessary for their outcome determination. Generally, the hearing officer will exclude from the hearing any witness who was not previously identified to the other party. If it is clearly demonstrated that a witness not interviewed during the investigation was not reasonably available (or not reasonably known to the parties) at the time of the investigation or that the witness is likely to have information that has significant relevance to a material fact at issue in the investigation, the hearing officer has the discretion to allow that witness to be interviewed. The interview will generally be conducted by the investigator, and a summary of information provided by the witness will be made available to both parties for their review and comment prior to the hearing.

A typical hearing may include brief opening remarks by the hearing officer; questions posed by the hearing officer to one or both of the parties; follow-up questions by one party to the other (typically with the Respondent questioning the Complainant first); questions by the hearing officer to any witness; and follow-up questions by either party to any witness (typically with the Respondent questioning the witness first). The hearing officer also will afford either party an opportunity at the end of the hearing to offer closing remarks. A decision whether to offer closing remarks is completely voluntary.

7. **Expectation of the Complainant, the Respondent, and the Witnesses at a Hearing.** The Complainant, the Respondent, the witnesses and other individuals sharing information with the hearing officer are expected to provide truthful information in any proceeding under this Policy. It is expected that individuals who have participated during the investigation will make themselves available to participate in the hearing as necessary.
8. **Notice of Hearing Outcome.** Following the hearing, the hearing officer will consider all of the evidence and make a determination, by a preponderance of the evidence, whether the Respondent has violated the Policy. The hearing officer will issue a written notice of hearing outcome, which will contain the hearing officer's factual findings, determination of whether a Policy violation occurred, and a summary of the hearing

officer's rationale in support of the hearing outcome. The hearing officer will strive to issue the written notice of hearing outcome within 14 calendar days of the hearing.

The DOS will provide the notice of hearing outcome to the Complainant and the Respondent simultaneously, and will strive to do so within 3 calendar days of receipt of the hearing officer's written notice of hearing outcome. The notice of hearing outcome will include information about next steps, which may include the sanctioning process (in the event there is sufficient evidence to support a Policy violation), or the appeal process.

If a Complainant has chosen not to participate in the investigative resolution, but requests to be notified of the outcome, the University will notify the Complainant. If a Complainant has requested not to be notified of the outcome, the University will honor that decision, but may proceed with any necessary follow-up, as appropriate, if the case proceeds to a sanctioning or appeals phase of the process.

#### **D. Sanctions**

If the Respondent is found responsible for engaging in Prohibited Conduct, the University will initiate a sanctioning process designed to eliminate the conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and fulfilling its Title IX obligations. Sanctions or interventions may also serve to remedy the discriminatory effects of the Prohibited Conduct on the Complainant and others as appropriate, including any systemic actions found to be appropriate for the broader university community. Other remedies may include targeted or broad-based educational programming or training.

The Sanctioning Agent will facilitate the sanctioning process outlined in this Policy upon receipt of the notice of hearing outcome and will make a sanctioning determination within 10 calendar days after the Complainant and the Respondent are notified of the hearing outcome.

##### **1. Sanctioning Process**

To ensure effective transition between phases of the process, the Complainant and the Respondent will be provided equal opportunity to meet with the Sanctioning Agent to understand the sanctioning phase of the process, if applicable, and/or any appeals phase that may also be applicable.

The Sanctioning Agent or designee will attend the hearing and review the investigation report, any additional information regarding the Respondent's disciplinary record, if any, and any sanctioning input

statement provided to the investigation by the parties as set forth below. The Sanctioning Agent may consult with the IES, the Title IX Coordinator, or the hearing officer as necessary.

## **2. Sanctioning Input Statement**

Both the Complainant and the Respondent may each offer a brief written sanctioning input statement within 5 calendar days of receiving the notice of a Policy violation. Input statements should be sent to the DOS. The purpose of the sanctioning input statements is for the parties to explain what sanction(s) they believe the Sanctioning Agent should implement and why. A sanctioning input statement from the Complainant is a written statement describing the impact of the Prohibited Conduct on the Complainant and expressing the Complainant's preferences regarding appropriate sanctions. A sanctioning input statement from the Respondent is a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanctions imposed. The Complainant's or the Respondent's decision whether to provide a sanctioning input statement is completely voluntary. The Sanctioning Agent may use information from these statements to help determine the Respondent's sanction.

The sanctioning input statements may not exceed 5 pages, including attachments. The DOS will provide the input statements to the investigator, who will review all information submitted for relevance and appropriateness. After this review, the DOS will share the input statements with the other party and Sanctioning Agent.

## **3. Factors Considered in Sanctioning**

In determining the appropriate sanctions, the Sanctioning Agent will be guided by a number of considerations, including:

- The nature of the conduct at issue;
- The impact of the conduct on the Complainant;
- The impact of the conduct on the community or the University, including protection of the University community;
- Prior misconduct by the Respondent, including the Respondent's relevant prior disciplinary history, both at the University or elsewhere, and any criminal convictions, if such information is available, known and reliable;

- Whether the Respondent has accepted responsibility for the conduct, which may be considered as a factor that may lessen, not increase, the severity of the sanctions;
- Maintenance of a safe and respectful environment conducive to learning;
- The necessity of any specific action in order to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects on the Complainant or other University community members; and
- Any other mitigating, aggravating, or compelling circumstances, including those set forth in the sanctioning input statements, to reach a just and appropriate resolution in each case.

#### 4. Possible Sanctions or Interventions Directly Impacting Respondent

The list of potential sanctions or interventions includes one or more of the following:

- **Disciplinary Probation:** A designated period of time during which the Student is not in good standing with the University. The terms of disciplinary probation may involve restrictions of Student privileges and/or set specific behavioral expectations;
- **Restitution:** Reasonable compensation limited to the actual and verifiable replacement or repair value of property lost or damaged;
- **Restriction from Employment at the University:** Prohibition of or limitation on University employment;
- **Class/Workshop/Training/Program Attendance:** Enrollment in and verified completion of a class, workshop, training, online learning, program, and/or follow up meetings with staff members any of which could help the Student and/or the University community. Examples include, but are not limited to, the following: Alcohol Education (BASICS), Alcohol Assessment (ASAP), Individual Marijuana Education Program (IMEP), Conflict Coaching, Wellness Coaching, Anger Management Workbook, Counseling (recommended & voluntary only), scheduled Check In Meetings with staff member, and Healthy Relationship/Consent/Wellness Education coaching;
- **Educational Project:** Completion of a project specifically designed to help the Student understand why certain behavior was inappropriate and to prevent its recurrence;

- **University Housing Transfer or Removal:** Placement in another room or housing unit or removal from University housing. Housing transfers or removals may be temporary or permanent depending on the circumstances;
- **Removal from Specific Courses or Activities:** Suspension or transfer from courses or activities at the University for a specified period of time;
- **No Contact:** Restriction from entering specific University areas and/or from all forms of contact with certain persons;
- **Suspension:** Separation from the University for a specified period of time or until certain conditions are met;
- **Expulsion:** Termination of Student status for an indefinite period;
- **Transcript Notation, Hold, and/or Notification to Other Institutions:** A notation of non-academic disciplinary action may be made on a transcript and/or the University may notify other institutions of non-academic disciplinary action. In addition, the University may place a hold on transcripts, meaning that the University may prevent a Student from registering for classes, receiving a copy of their transcript/diploma, or both;
- **Withholding, Delaying, or Revoking the Conferral of the Degree:** The University may delay the conferral of the degree pending the outcome of an investigation or withhold the conferral of the degree due to a finding of Prohibited Conduct. In extraordinary circumstances, the University may revoke the conferral of the degree.

If a Student-Employee is found to have engaged in Prohibited Conduct, the Student-Employee may be subject to sanctions both in connection with their employment and in connection with their Student status, as appropriate under this and other applicable processes.

## 5. **Possible Interventions to Remedy Discriminatory Effects on the Complainant and Others**

The Sanctioning Agent will also be responsible for identifying and implementing any non-disciplinary actions necessary to prevent recurrence of the harassment and actions to remedy its discriminatory effects on the Complainant and others as appropriate, including any systemic actions found to be appropriate for the broader University

community. Such interventions may include academic accommodations, counseling, reimbursement, education or training, monitoring or other individual support needed to remedy the harm. The Sanctioning Agent will identify what actions the University will take, who will be responsible for implementing such actions, and by when. To the extent the Sanctioning Agent determines that non-disciplinary interventions for the Complainant or others are not necessary, the Sanctioning Agent will identify why such remedies are not needed.

## **6. Written Notice of Sanction(s) and Interventions**

The Sanctioning Agent will provide the written notice of the sanction(s) and intervention(s) to the Complainant and the Respondent simultaneously. The notice will include the sanction(s) and intervention(s), a summary of the Sanctioning Agent's rationale in support of the sanction(s) and intervention(s), and the appeal process.

## **E. Appeals of Findings or Sanctions**

Both a Complainant and a Respondent may generally appeal the hearing outcome, the sanctions and interventions, or both, subject to the grounds for appeal set forth below. If the Respondent accepted responsibility for the allegation, either party may appeal the sanction determination, but not the Policy violation. The appeal will be conducted in an impartial manner and equivalent rights will be provided to both parties throughout the process.

A Complainant may appeal the hearing officer's determination that there is insufficient evidence to support a Policy violation within 7 calendar days of the date of the written notice of the hearing outcome.

A Respondent may appeal the hearing officer's determination that there is sufficient evidence to support a Policy violation within 7 calendar days of the date of the written notice of the hearing outcome.

Either party may appeal the sanction imposed by the Sanctioning Agent within 7 calendar days of the date of the written notice of sanction.

To appeal the hearing outcome or the sanctions, a party must submit a written request to the DOS within 7 calendar days of the date of the notice of the hearing outcome or sanction, whichever is relevant. The DOS may deem a late submission reasonable only under extraordinary or extenuating circumstances. The appeal shall consist of a plain, concise, and complete written statement of no more than 10 pages, outlining the basis for appeal and all relevant information to substantiate the appeal. If a party's appeal includes an assertion that new relevant evidence unavailable earlier in the proceedings exists and that includes written or other documentary evidence, such evidence will not be subject to this page limit.

Each party will be given the opportunity to review and respond in writing to up to 10 pages, to an appeal submitted by the other party. Any response by the opposing party must be submitted to the DOS within 7 calendar days. All appeal documents from each party will be considered together in one submitted appeal.

## **1. Grounds for Appeals**

A Complainant or a Respondent may appeal the finding or hearing outcome, as appropriate, on one or both of the following grounds:

- A significant deviation from the procedures that impacted the outcome of the investigative resolution in a way that is fundamentally unfair; or
- There is new and relevant information that was unavailable, with reasonable diligence and effort, earlier in the proceedings that is sufficient to alter the hearing outcome.

A Complainant or a Respondent may appeal the sanction on the following ground:

- The sanction was clearly inappropriate and/or disproportionate to the conduct for which the person was found responsible.

## **2. External Reviewer Will Conduct Appeal Review**

The appeal review will be conducted by an external reviewer. The external reviewer will be a neutral party outside of the University. The external reviewer will be chosen by the OGC in consultation with the VPSA. The external reviewer will receive annual training regarding the University's policies and procedures, the handling of Student sexual misconduct cases, and other relevant issues.

The external reviewer must be impartial and free from bias or conflict of interest. If the external reviewer has concerns that he or she cannot conduct a fair or unbiased review, the external reviewer may report those concerns to the Title IX Coordinator and a different external reviewer will be assigned to the appeal. Similarly, a Complainant or a Respondent who has concerns that the assigned external reviewer cannot conduct a fair and unbiased review, may report those concerns to the Title IX Coordinator who will assess the circumstances and determine whether a different external reviewer should be assigned to the appeal.

The external reviewer will review the matter based on the issues identified in the appeal(s) materials. The external reviewer may, at any time, freely

consult with or request additional information from the Title IX Coordinator, the OGC, and other University administrators as necessary. The external reviewer has the authority to determine the appropriateness of evidence, including whether certain evidence should be considered, and the strength and value that evidence will be given. In deciding an appeal of the finding or the sanction, the external reviewer may consider the investigation report, the hearing transcript, the notice of hearing outcome, and any written appeal by the parties outlining any basis for altering the hearing outcome and/or sanctions, the sanctioning determination, and any sanctioning input statements. The external reviewer also may consider any other materials the University deems relevant and that have been shared with the parties.

### **3. Decision of External Reviewer**

The external reviewer may conclude that there are no relevant issues of concern, and therefore, recommend that the hearing outcome and/or the sanctioning determination be affirmed. In the alternative, the external reviewer may identify issues of concern. If so, the external reviewer will provide, in writing, to the case manager, copying the Title IX Coordinator, one of the following recommended actions and any additional instructions or recommendations they deem appropriate under the circumstances:

- If there was a significant deviation from procedure that impacted the outcome of the case in a way that is fundamentally unfair, remand the matter to the Title IX Coordinator or the hearing officer, as appropriate, with corrective instructions from the external reviewer;
- If new information that was unavailable with reasonable diligence earlier in the proceedings would alter the hearing outcome, remand the matter to the hearing officer, to determine whether a new hearing is necessary and whether any modifications may need to be made to the hearing outcome; or
- If the external reviewer determines the sanctions to be clearly inappropriate or disproportionate, they will alter the sanctions or interventions accordingly. The external reviewer's decision regarding sanctions is final. There will be no further opportunity for the parties to appeal the sanctions, except as set forth in the following paragraph of this Policy.

If a new hearing is deemed necessary following an appeal and results in a different determination, the Complainant or the Respondent can appeal the new finding subject to the following grounds:

- A significant deviation from the procedures during the remanded hearing that impacted the outcome of the hearing in a way that is fundamentally unfair;
- There is new and relevant information that was unavailable, with reasonable diligence and effort, at any prior time during the process that would alter the remanded hearing outcome; and
- If the new and different outcome determination is a finding of responsibility following the sanctioning process, the parties may appeal the sanction as clearly inappropriate and/or disproportionate to the conduct for which the person was found responsible.

The external reviewer will strive to complete the appeal review within 7 calendar days of receipt of all documents.

The external reviewer will provide these determinations to the VCSA or their designee who may accept or modify the determinations made by the external reviewer within 72 hours of receiving the external reviewer’s decision. If the VCSA or their designee does not complete the review within 72 hours, the review will be waived and the external reviewer’s determination will be deemed final. The VCSA’s final and unreviewable decision will be made available to the participating parties, in writing, simultaneously, by the DOS.

**VIII. ADAPTABLE RESOLUTION**

The University recognizes that it is important to take into account the needs of Students, some of whom may prefer not to go through an investigative resolution. Adaptable resolution is a voluntary, remedies-based, structured process between or among affected parties that balances support and accountability without formal disciplinary action against a Respondent, while focusing on the expressed needs of the harmed party(ies). Adaptable resolution is generally designed to allow a Respondent to acknowledge harm and accept responsibility for repairing harm (to the extent possible) experienced by the Complainant and/or the University community. Adaptable resolution is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the Complainant while maintaining the safety of the campus community.

**A. Circumstances in Which Adaptable Resolution May be Used**

The Title IX Coordinator reviews the matter to the extent necessary to confirm that it is of the type that would be appropriate for an adaptable resolution process and that use of an adaptable resolution process is without pressure or compulsion from others. The adaptable resolution options available under this Policy recognize:

- The goal of adaptable resolution is to address the Prohibited Conduct, identify ways that individuals and/or the community have been harmed, and develop a resolution agreement to address the harm and prevent future Prohibited Conduct;
- Participation is voluntary and both a Complainant and a Respondent, as well as any other participating individuals, must consent in writing to participation in adaptable resolution;
- The written consent will inform the Complainant and the Respondent that either can request to end adaptable resolution at any time before an agreement is reached and pursue an investigative resolution. The written consent will also inform parties that information gathered and utilized in adaptable resolution by and between the parties cannot be used in any other University process, including investigative resolution, if adaptable resolution ends and investigative resolution begins or resumes;
- The University will not pressure or compel a Complainant to engage in mediation, to directly confront the Respondent, or to participate in any particular form of adaptable resolution;
- Prohibited Conduct affects Complainants, Respondents, witnesses, friends, community members, family members, and others;
- The Complainants, the Respondents, and other participants in adaptable resolution often benefit when resolution processes and outcomes are tailored to meet their unique needs and interests;
- The Complainants and other participants in adaptable resolution may find it useful to meet with a Respondent who acknowledges the substance of the underlying events and who acknowledges that the Complainants or the participants have reported experiencing harm as a result;
- Structured processes between participants can facilitate long-term healing and reduce recidivism; and
- Participants in adaptable resolution processes will be protected from secondary victimization and other potential harms, including the pressure to proceed through adaptable resolution instead of investigative resolution.

## **B. Adaptable Resolution Options**

The adaptable resolution options will be facilitated by a trained coordinator within OSCR (the adaptable resolution coordinator). The adaptable resolution coordinator must be impartial and free from bias or conflict of interest. If the adaptable resolution coordinator has concerns that he or she cannot facilitate a fair

or unbiased process, the adaptable resolution coordinator may report those concerns to the OSCR Director and a different adaptable resolution coordinator will be assigned to the appeal. Similarly, a Complainant, a Respondent, or any other participant who has concerns that the assigned adaptable resolution coordinator cannot enable a fair and unbiased process, may report those concerns to the IES or the OSCR Director, and the OSCR Director will assess the circumstances and determine whether a different adaptable resolution coordinator should be assigned to the adaptable resolution process.

With approval from the Title IX Coordinator, or designee, after consultation and intake with the adaptable resolution coordinator, the Complainant and the Respondent must voluntarily agree on the process that best meets the interests and needs of the parties. Adaptable resolution may include one or more of the following restorative approaches:

- **Facilitated Dialogue:** A structured and facilitated conversation between two or more individuals, most often the Complainant, the Respondent, and/or other community members. The focus is often on providing a space for voices to be heard and perspectives to be shared. Depending on stated interests, the participants may sometimes work towards the development of a shared agreement, although working towards an agreement is not always the intended outcome;
- **Restorative Circle or Conference Process:** A facilitated interaction where individuals who have experienced harm can come together with an individual(s) who assumes responsibility for repairing harm, with the goal of creating a plan or agreement to repair the harm (to the extent possible). A circle or conference may include multiple members of the community to explore individual and community impact, harm, obligations, and opportunity for repairing them. The parties must agree on all those who will be present;
- **Shuttle Negotiation:** An indirect, facilitated conversation individually with the Complainant, the Respondent, and/or other participants to discuss experience and perspective and explore interests while working towards meeting expressed needs. This negotiated process does not require direct interaction between the parties or the parties and other participants, but rather, independently, with a coordinator; and/or
- **Circle of Support and Accountability (COSA):** A facilitated interaction between the Respondent and University faculty and/or staff designed to provide accountability, structured support, and the development of a learning plan. The focus of a COSA is to balance support and accountability for an individual who has acknowledged their obligation to repair harm and willingness to engage in an

educational process. The COSA model does not require participation from the Complainant.

Measures that may be agreed to as a result of the resolution process may include:

- Alcohol education classes for the Respondent;
- Regular meetings with an appropriate University individual, unit, or resource;
- Permanent extension of a no contact directive;
- Restriction from participation in specific clubs and/or organizations;
- Respondent restriction from participation in particular events;
- Respondent completion of an educational plan with regular meetings with the adaptable resolution coordinator or other appropriate University staff or faculty member; and
- Counseling sessions for the Respondent.

Individuals who wish to participate in an adaptable resolution process must have successfully completed preparatory meetings with an appropriate staff member(s) within OSCR.

Individuals may be accompanied by an adviser at any meetings related to the adaptable resolution process. Information shared or obtained during adaptable resolution will be treated as private to the extent permitted by law and will not result in subsequent disciplinary actions by the University.

### **C. Adaptable Resolution Agreements**

Any agreements reached in adaptable resolution must be documented by the adaptable resolution coordinator and approved by the Title IX Coordinator to ensure consistency with the University's Title IX obligations. An agreement will not be considered valid if the Title IX Coordinator does not approve it.

If the Title IX Coordinator approves an agreement after the parties have voluntarily reached consensus as to its terms, the Respondent will be required to comply with the agreement. If no agreement is reached, the matter may be referred to the IES for further action. Should the process revert to investigative resolution, information obtained through the adaptable resolution process may not be utilized in the investigative resolution. Once the Title IX Coordinator approves an agreement, the parties are bound by its terms and cannot return to investigative resolution.

To fairly assess pattern or systemic behavior, the IES will maintain records of all reports and conduct referred for adaptable resolution.

#### **IX. ADAPTABLE INTERVENTIONS OR REMEDIES FOR THE UNIVERSITY COMMUNITY**

In addition to the sanctions/interventions applied to the Respondent, and regardless of whether the University pursues an investigative resolution or takes other formal disciplinary action, the IES may find it helpful or necessary to request or require a Respondent or others to undertake specific steps designed to eliminate the misconduct, prevent its recurrence, and/or remedy its effects. Examples include, but are not limited to, the following:

- Requesting or requiring a University entity to provide training for its staff or members;
- Requesting or requiring a Respondent to receive training;
- Continuing any of the protective and Supportive Measures previously established;
- Identifying the need for any additional or ongoing measures, supports and remedies; or
- Revising University policies, practices, or services.

#### **X. RECORDS RETENTION**

The University shall retain for a period of 7 years after the date of case closure: the official case files relating to an investigative resolution, including any investigation hearing, sanctioning, and/or appeals processes involving allegations of Prohibited Conduct. In cases in which a Respondent was found to have violated the Policy and was expelled, the University may retain such official case files indefinitely.

#### **XI. ANNUAL REPORT**

The IES will issue an [Annual Report](#) to the University of Michigan community providing an overview of the number and nature of reports of Prohibited Conduct received during the preceding fiscal year. The report will provide the community with an overview of response efforts.