

FROSTBURG STATE UNIVERSITY
PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS OF PROHIBITED CONDUCT
UNDER THE UNIVERSITY'S GENDER-BASED HARASSMENT AND VIOLENCE POLICY

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1. INTRODUCTION

Frostburg State University (the "University") has established a Gender-Based Harassment and Violence Policy (the "Policy") that articulates the expectations for maintaining a safe and nondiscriminatory learning and workplace environment. This document sets forth procedures (the "Procedures") for responding to, investigating, and resolving reports of Prohibited Conduct against faculty, staff, and students.

Individuals who experience Prohibited Conduct are encouraged to explore all available options for resolution, including resolution under these Procedures and with law enforcement. The University and criminal justice processes are not mutually exclusive; and an individual can choose to pursue both a report under these Procedures and criminal investigation at the same time.

These Procedures should be read in conjunction with the Policy. These Procedures replace all procedures previously in effect pertaining to reports and complaints of Prohibited Conduct.

2. DEFINITIONS

Appellant refers to the party who files a request for appeal.

Appellee refers to a party opposing an appeal.

Business days means Monday through Friday and excludes federal and state holidays.

Complainant refers to the individual who experienced Prohibited Conduct, regardless of whether the individual is the person who reported it to the University, participated in the University's review and investigation, or filed a formal complaint alleging violation of the Policy.

Employee means a faculty employee or staff employee, regardless of type (*i.e.*, regular or contingent).

Investigator refers to the individual(s) designated by the Title IX Coordinator to conduct a prompt, thorough, fair, and impartial investigation of incidents of Prohibited Conduct. The investigator coordinates the gathering of information to make a determination whether the Respondent is responsible for violating the Policy based on a preponderance of the evidence. Any investigator appointed by the University receives annual and ongoing training on issues related to Prohibited Conduct and how to conduct an investigation in a fair and impartial manner.

Party or parties refers individually or collectively to the Complainant and/or Respondent.

Prohibited Conduct refers to conduct that is prohibited under the Policy and encompasses sexual harassment, gender-based harassment, sexual violence, sexual exploitation, sexual intimidation, relationship violence, stalking, complicity, and retaliation. Definitions and detailed examples of Prohibited Conduct can be found in Section V of the Policy.

Preponderance of the evidence refers to the evidentiary standard used to determine whether a Policy violation occurred. A preponderance of the evidence means that the evidence gathered and information provided during an investigation supports a finding that it is more likely than not that the Respondent violated the Policy.

Respondent refers to an individual accused of engaging in conduct that violates the Policy.

Student Conduct Administrator refers to the Director of Student Conduct and Community Standards or designee.

3. RIGHTS OF THE PARTIES

These Procedures are designed to provide for the prompt, equitable, and impartial investigation and resolution of incidents of Prohibited Conduct reported to the University. Throughout this process the Complainant and the Respondent have the following rights:

3.1 Complainant's Rights

- The right to be treated with dignity and respect by University officials.
- The right to experience a safe living, educational, and work environment.
- The right to be informed of available on and off campus counseling and support services.
- The right to working, housing, and academic accommodations as necessary.
- The right to have an advisor of one's choice present at any meeting or proceeding held as part of the process to resolve a complaint of Prohibited Conduct.
- The right not to face disciplinary action for consumption of alcohol or drugs at or near the time of the reported incident of Prohibited Conduct.
- The right to be free from retaliation.
- The right to have complaints investigated and/or resolved in substantial accordance with these Procedures.
- The right to refuse to have a complaint resolved through Voluntary Resolution.
- The right to challenge an individual designated by the University to investigate and/or resolve the complaint based upon a conflict of interest.
- The right to have a complaint investigated by individuals who receive annual training on sexual misconduct, relationship violence, and stalking.
- The right to be promptly notified in writing of the outcome of a complaint.
- The right not to be discouraged by University officials from reporting an incident to law enforcement.
- The right to request a "no contact" order/directive be put in place and enforced.
- The right to review all evidence and witness statements collected as part of the investigation of a complaint.
- The right to be free from direct questioning by the Respondent during any part of the resolution process.
- The right not to have irrelevant prior sexual history discussed during the investigation and resolution process.
- The right to submit an impact statement and have that statement considered in determining sanction(s).
- The right to appeal an investigator's determination and/or sanctions imposed upon the Respondent.
- The right to meet with the University's Title IX Coordinator at any point in the process.

3.2 Respondent's Rights

- The right to be treated with dignity and respect by University officials.
- The right to be presumed not responsible for violating the Policy and for an outcome based solely on the evidence

presented during the investigation and resolution of a complaint.

- The right to be informed of available on and off campus counseling and support services.
- The right to a written summary of the allegations, the range of potential Policy violations, and the range of potential disciplinary sanctions.
- The right to have an advisor of one's choice present at any meeting or proceeding as part of the process to resolve a complaint of Prohibited Conduct.
- The right to have complaints investigated and/or resolved in substantial accordance with these Procedures.
- The right to refuse to have a complaint resolved through Voluntary Resolution.
- The right to be free from retaliation.
- The right to a prompt, fair, and impartial investigation and resolution of all complaints of Prohibited Conduct.
- The right to be free from direct questioning by the Complainant during any part of the resolution process.
- The right to review all the evidence and witness statements collected as part of the investigation of a complaint.
- The right not to have irrelevant prior sexual history discussed during the investigation and resolution process.
- The right to submit a mitigation statement and to have that statement considered in determining sanction(s).
- The right to challenge an individual designated by the University to investigate and/or resolve the complaint based on conflict of interest.
- The right to be promptly notified in writing of the outcome of the complaint.
- The right to have the complaint investigated by individuals who receive annual training on sexual misconduct, relationship violence, and stalking.
- The right to appeal an investigator's determination and/or sanctions imposed.
- The right to meet with the University's Title IX Coordinator at any point during the process.

4. INITIATING THE RESOLUTION PROCESS

Individuals who believe that they have experienced Prohibited Conduct by a member of the University community may report the incident and seek redress under these Procedures by:

- Contacting the Office of Gender Equity by telephone, email, mail, or in person during regular office hours:
301.687.4733 • titleix@frostburg.edu • 126 Hitchins Administration Building
- Filing a report online at www.frostburg.edu/report

Complainants are entitled to receive information, assistance, and a broad range of support and remedial measures regardless of whether they choose to file a formal complaint under these Procedures.

5. NOTICE TO THE PARTIES AND ATTENDANCE AT MEETINGS OR PROCEEDINGS

During the resolution process, both parties will be provided timely notice of any meetings at which their presence is requested or required. Notices provided to students and employees under the Policy will be sent to the individual's official frostburg.edu email

account. For registered student organizations, notice shall be mailed to the organization's representative, typically the president. Failure to read and comply with any notice is not suitable grounds for an appeal.

5.1 Rescheduling of Meetings or Proceedings

The dates and times for meetings and proceedings held under these Procedures are determined by the parties' class or work schedules and the availability of the Title IX Coordinator, the investigator, the Appeal Board, and/or other University officials. A meeting or proceeding will only be rescheduled for good cause. If a party fails to attend a meeting or proceeding such meeting or proceeding may be held in the party's absence. If a Respondent leaves or withdraws from the University prior to the conclusion of an investigation and determination of responsibility, the University will move forward with the investigation and determination of responsibility, and may impose sanctions(s), in absentia. For the purposes of this section, "good cause" means circumstances outside a party's control, such as illness, a death in the family, or an academic conflict.

5.2 Advisors

Each party may choose, at their own initiative and expense, an individual to provide support and advice during the investigation and resolution process. A party may be accompanied by one advisor at any meeting or proceeding held as part of these Procedures. The advisor can assist a party by taking notes, providing emotional support and reassurance, organizing documentation, or consulting directly with the party in a way that does not disrupt or delay the process. While the advisor may provide support and advice to a party, the advisor may not speak on behalf of a party or otherwise participate in, or in any manner, disrupt the meeting and/or proceeding. The advisor may not submit documents, either directly or indirectly, on a party's behalf at any stage of the process, nor speak for the party during an interview with the investigator. An advisor whose presence is deemed at the sole discretion of the University official conducting the proceeding or meeting to be improperly interfering with the proceeding or meeting will be required to leave and may be prohibited from participating in further meetings or proceedings under these Procedures.

The advisor may be an attorney, parent, counselor, advocate, or any other person a party chooses except that the advisor cannot be a participating witness. A party must provide his or her advisor's name and contact information to the Title IX Coordinator or designee at least twenty-four (24) hours prior to attending any meeting(s) as part of these Procedures. A party must also inform the Title IX Coordinator or designee if they change advisors during the process. While the University will make reasonable efforts to accommodate the schedule of a party's advisor in scheduling meetings and proceedings, an advisor's inability to attend a meeting does not constitute good cause that would necessitate rescheduling a meeting or proceeding.

6. INTAKE MEETING

Within three (3) business days of an incident of Prohibited Conduct being reported to the Office of Gender Equity, the Title IX Coordinator or designee will schedule an Intake Meeting with the Complainant in order to discuss options for resolution and the resources available. Based on the nature of the incident reported, the Intake Meeting may include:

- Assessing the Complainant's immediate safety and well-being
- Informing the Complainant of available confidential support and other services
- Determining whether the appropriate child protective service agency should be notified pursuant to mandatory child abuse and neglect reporting laws
- Determining whether non-identifying information about the report needs to be entered into the University's daily

crime log

- Encouraging the Complainant to seek medical treatment and explaining the importance of preserving forensic evidence
- Assessing whether Interim Measures may be appropriate
- Informing the Complainant of their right to contact and pursue a complaint with law enforcement
- Explaining the Complainant's right to seek a protective order with the court as well as the option for a No Contact Order/Directive issued by the University
- Informing the Complainant of their right to seek resolution under these Procedures
- Determining whether the Complainant wishes to remain confidential
- Explaining the University's policy against retaliation
- Collecting preliminary information on the nature and circumstances of the incident
- Ascertaining the Complainant's wishes for resolution and if they want to file a formal complaint under these Procedures

7. INITIAL REVIEW AND DECISION TO INVESTIGATE

Following the Intake Meeting, or upon receiving notice from the Complainant that they do not wish to participate in the Intake Meeting, the Title IX Coordinator or designee will review the reported information in order to: (i) evaluate the risk of harm to the Complainant and to the University community; and (ii) determine whether the report falls under Section III and Section V of the Policy to warrant further action (the "Initial Review").

Factors considered during the Initial Review include:

- The nature and circumstances of the allegation;
- Potential pattern evidence or similar conduct;
- The safety of the Complainant and others in the University community; and
- The Complainant's expressed preference regarding resolution.

The University supports a trauma-informed, survivor-centered approach to the investigation and resolution of incidents of Prohibited Conduct. Accordingly, the University strives to resolve incidents of Prohibited Conduct consistent with the Complainant's expressed preference while at the same time maintaining its commitment to provide due process to the Respondent(s) and promote a safe campus environment. If the Complainant is willing to cooperate with the Initial Review, the University will proceed to *Voluntary Resolution* or an *Investigation & Determination of Responsibility* as detailed in these Procedures. If the Complainant chooses not to cooperate in the Initial Review, the University will still investigate the incident of Prohibited Conduct if there is a threat to an individual or to the University community. However, the University's ability to fully investigate and resolve the reported incident may be limited when the Complainant declines to participate in the investigation.

At the conclusion of the Initial Review, the Title IX Coordinator or designee will determine:

- No further action should be taken based on the information available and/or the Complainant's request that no investigation be pursued or that no disciplinary action be taken;
- The alleged conduct falls outside of Section III and Section V of the Policy and the matter should be referred to the Office

of Student Affairs, Office of Human Resources, or other appropriate University official for further consideration and disciplinary action; or

- The alleged conduct falls within Section III and Section V of the Policy and the reported incident should proceed to Voluntary Resolution or an Investigation & Determination of Responsibility in accordance with these Procedures.

The Complainant will be notified of the Title IX Coordinator or designee's determination within two (2) business days following the conclusion of the Initial Review.

7.1 Consolidation of Reports

At the discretion of the Title IX Coordinator or designee, multiple incidents of Prohibited Conduct may be consolidated into one investigation or proceeding if the information related to each incident would be relevant and probative in reaching a determination on the other incident(s). This includes matters where the determination has been made that there is relevant pattern evidence or where the evidence of the other conduct is inextricably intertwined with the Prohibited Conduct. Matters may be consolidated where they involve multiple complainants, multiple respondents, or related conduct involving the same parties, provided that it does not delay the prompt resolution of complaints under the Policy.

7.2 Interim Suspension

7.2.1 When the Respondent is a Student or Student Organization

The Title IX Coordinator or designee may request that an interim suspension and/or loss of privileges be imposed upon a student or student organization pending the outcome of an investigation and determination of responsibility under these Procedures. An interim suspension and/or loss of privileges may be requested in order to: (i) ensure the safety and wellbeing of members of the University community or preservation of University property, (ii) ensure the Respondent's own physical or emotional safety and wellbeing, or (iii) ensure the stability and continuance of normal University functions.

The Title IX Coordinator or designee shall make a request for interim suspension to the Office of Student Affairs. Upon receipt of the request, the Student Conduct Administrator shall hold a show cause hearing to provide the Respondent with the opportunity to demonstrate why the interim suspension should not be imposed.

7.2.2 When the Respondent is an Employee

The Title IX Coordinator or designee may request that an employee be suspended or assigned other duties pending the outcome of an investigation and determination of responsibility under these Procedures. An interim suspension or assignment of other duties may be requested in order to: (i) ensure the safety and wellbeing of the University community or preservation of University property, (ii) ensure the Respondent's own physical and emotional safety and wellbeing, or (iii) ensure the stability and continuance of normal University functions. Such request shall be made to the Provost (for faculty Respondents) or the Vice President of Human Resources (for non- faculty staff Respondents) and proceed in accordance with the appropriate faculty handbook, collective bargaining agreement, and/or applicable employee policies and procedures.

8. VOLUNTARY RESOLUTION

8.1 Purpose

The University recognizes that in some limited circumstances voluntary resolution may be an appropriate means of addressing some behaviors reported under the Policy. Voluntary Resolution utilizes mediation, facilitated dialogue, and/or restorative justice

principles and is an alternative to an Investigation & Determination of Responsibility as a means of resolving incidents of Prohibited Conduct. Voluntary Resolution is designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the Complainant and the safety and welfare of the University community.

Voluntary Resolution may be appropriate when the parties desire to resolve a situation cooperatively, a Complainant requests anonymity, or the alleged misconduct, even if it does not rise to the level of a Policy violation, suggests the need for remedial, educational, or preventive action. Voluntary Resolution may include an inquiry into the facts, but does not include an investigation and determination of whether a Policy violation occurred.

8.2 Eligibility

A Complainant must request Voluntary Resolution and the Title IX Coordinator or designee will determine if Voluntary Resolution is appropriate, based on:

- the willingness of both parties to participate in the process;
- the nature and scope of the conduct at issue; and
- the University's ability to meet its obligations to maintain a safe and non-discriminatory learning and working environment.

A Complainant may request Voluntary Resolution at any time, including requesting to end an investigation in order to pursue Voluntary Resolution. Voluntary Resolution is not appropriate for all forms of Prohibited Conduct and is not available for complaints involving sexual assault or in cases where the Respondent is an employee and the Complainant is a student.

8.3 Authority of the Title IX Coordinator

The Title IX Coordinator or designee has the discretion to determine the particular form of Voluntary Resolution that may be appropriate to address the conduct at issue and may refer the matter to an Investigation & Determination of Responsibility at any time during the Voluntary Resolution process.

8.4 Participation by the Parties

Participation in Voluntary Resolution (including any particular form of Voluntary Resolution) is voluntary. The University is committed to protecting participants from experiencing secondary victimization or other harm during the Voluntary Resolution process. Accordingly, the University will not require the parties to engage in Voluntary Resolution and will never compel the parties to directly confront each other.

Some forms of Voluntary Resolution may focus solely on supporting the Complainant with no participation or involvement from the Respondent. Depending on the type of remedy implemented, it may be possible for the Complainant to maintain anonymity with Voluntary Resolution. If Voluntary Resolution involves either notification to or participation by the Respondent, it is the Respondent's decision whether to accept and/or participate in Voluntary Resolution.

It is not necessary to pursue Voluntary Resolution prior to pursuing an Investigation & Determination of Responsibility and either party can stop Voluntary Resolution at any time and request that the matter be referred to the Investigation & Determination process.

8.5 Disclosure of Information

Information shared or obtained during Voluntary Resolution will be treated as private and will not result in subsequent disciplinary action by the University, unless additional action is deemed necessary to fulfill the University's legal obligations. To assess pattern or systematic behavior fairly, the Title IX Coordinator will maintain records of all incidents of Prohibited Conduct referred for Voluntary Resolution.

8.6 Outcome

Any agreements reached during Voluntary Resolution must be approved by the Title IX Coordinator or designee. If both parties reach an agreement that is approved by the Title IX Coordinator or designee, the reported incident is considered resolved and the matter is closed. If no agreement is reached, the reported incident may be referred back to the Title IX Coordinator or designee for further action. Both parties shall receive, in writing and at the same time, notification of the Voluntary Resolution outcome.

Potential outcomes of Voluntary Resolution may include, but are not limited to:

- Establishing remedial and/or protective measures
- Conducting targeted or broad-based educational programming or training for relevant individuals or groups
- Providing increased monitoring, supervision, or security at locations or activities where the incident occurred
- Facilitating a meeting between the parties (not available in cases of sexual assault or when the Respondent is an employee and the Complainant is a student)
- Restorative justice principles designed to allow the Respondent to accept responsibility for the misconduct and acknowledge the harm to the Complainant and/or the University community
- Referral to counseling
- Warning, reprimand, or other disciplinary action agreed to by the Respondent
- Other remedial and protective measures that can be tailored to achieve the goals of the Policy

8.7 Time Frame

The time frame for completing Voluntary Resolution may vary, but the University will seek to complete the process within thirty (30) business days of the Complainant's request for Voluntary Resolution.

9. INVESTIGATION AND DETERMINATION OF RESPONSIBILITY

An Investigation & Determination of Responsibility is commenced when:

- An individual files a formal complaint alleging a member of the University community engaged in Prohibited Conduct;
- An incident of Prohibited Conduct is not resolved through Voluntary Resolution and it is determined that an investigation is required; or
- The University initiates a complaint at the conclusion of the Initial Review.

Following any of the circumstances above, the Title IX Coordinator or designee will appoint an investigator (or team of investigators) to conduct the investigation of the reported incident of Prohibited Conduct. The investigator(s) undertake an investigation for the purposes of adjudicating whether the Respondent is responsible for the alleged violation(s) of the Policy.

The investigator's determination will be made using the preponderance of the evidence standard.

9.1 Initiating a Complaint

9.1.1 **Complaint Initiated by the Individual Who Experienced Prohibited Conduct**

Individuals who experience Prohibited Conduct by a member of the University community may file a formal complaint with the Office of Gender Equity. A complaint of Prohibited Conduct must be submitted in writing using the Complaint Form found at www.frostburg.edu/titlix/policy. The complaint must contain sufficient information to permit the Respondent to understand the allegations against them and to allow them to adequately respond.

9.1.2 **University-Initiated Complaint**

At the conclusion of the Initial Review, the Title IX Coordinator or designee may determine that the reported incident of Prohibited Conduct requires an investigation even though the affected individual requested anonymity, that no investigation occur, and/or that no disciplinary action be taken against the accused. When the University initiates a complaint, the individual who experienced the alleged Prohibited Conduct will receive notice of the University's intent to move forward with an investigation, but they will not be required to participate in any actions undertaken by the University as part of the investigation and determination of responsibility.

9.2 Notice of Investigation

The Title IX Coordinator or designee will issue a Notice of Investigation to the parties advising them of the commencement of the University's investigation. The Notice of Investigation will contain: (i) a summary of the allegations or conduct being investigated, (ii) the potential Policy violations for this misconduct, (iii) the range of potential sanctions, and (iv) the name of the individual(s) appointed to conduct the investigation.

Within three (3) business days from the date of the Notice of Investigation, the Respondent must meet with the Title IX Coordinator or designee. During this meeting, the Title IX Coordinator or designee will:

- Discuss the nature of the complaint and provide the Respondent with a copy of the complaint;
- Inform the Respondent of their rights and responsibilities;
- Advise the Respondent of any interim measures that have been imposed;
- Instruct the Respondent not to destroy any potentially relevant evidence;
- Explain the University's prohibition against retaliation; and
- Provide the Respondent with a copy of the Policy and these Procedures.

Failure to meet with the Title IX Coordinator or designee will not stop or delay the investigation of the complaint.

9.3 Preservation of Evidence

Individuals should preserve evidence, to the extent possible, which may assist in determining if the alleged misconduct occurred. Specific suggestions for preservation of evidence after a sexual assault can be found on the Office of Gender Equity's webpage at www.frostburg.edu/titleix/sources-of-support/what-to-do-after-a-sexual-assault/ or by calling the Family Crisis Resource Center's 24-hour helpline at 301.759.9244 and speaking with an advocate. Complainants are strongly encouraged to report

incidents of Prohibited Conduct to law enforcement because they can assist with the preservation of evidence.

9.4 Investigative Process

The University's investigation is designed to provide a fair and reliable gathering of facts for the investigator to consider for the purpose of adjudicating whether the Respondent is responsible for the alleged misconduct. The Title IX Coordinator or designee will oversee the investigation and assign a fair and impartial investigator who has training and experience investigating allegations of Prohibited Conduct. The parties will be asked to identify all information they would like the investigator to review, including any witnesses they would like to be interviewed. Decisions about interviews and collection and evaluation of information are at the discretion of the investigator. The investigator may need to interview the parties multiple times during the investigation. The investigator will also gather any available physical or documentary evidence, including prior statements by the parties or witnesses, any communications between the parties, email messages, social media, text messages, and other records as appropriate and available. The investigator will determine whether a Policy violation occurred based solely on the information gathered during the investigation and applying a preponderance of the evidence standard.

9.5 Concurrent Criminal Proceedings

Where the University is made aware that there is a concurrent criminal investigation, the Title IX Coordinator or designee will coordinate with law enforcement so that the University's investigation does not interfere with the integrity or the timing of the criminal investigation. At the request of law enforcement, the University may agree to defer the fact-finding portion of its investigation until after the initial stages of the criminal investigation. The Title IX Coordinator or designee may still communicate with the parties regarding their Title IX rights, procedural options and implementation of interim measures to assure safety and well-being. The University will promptly resume its fact gathering as soon as law enforcement has completed its initial investigation.

9.6 Cooperation with Investigation

All members of the University community (including students, faculty, staff, and third parties) are expected to cooperate with the University's investigation of an incident of Prohibited Conduct. Failing to cooperate with the University's investigation may result in disciplinary action being taken against that individual, up to, and including, expulsion, termination of employment, or termination of other contract or relationship with the University.

Nothing in this section shall preclude either party from declining to participate in the University's investigation of a reported incident of Prohibited Conduct. The investigation, however, may proceed, and a determination of responsibility and imposition of sanction(s) may occur without the participation of one or both parties.

9.7 Presumption of Non-Responsibility

The investigation is a neutral fact-gathering process. The Respondent is presumed not responsible and this presumption may only be overcome where the investigator concludes (by a preponderance of the evidence) that the Respondent engaged in the Prohibited Conduct. The Respondent's decision to not participate in the University's investigation when there are criminal charges pending will not be given an adverse inference by the investigator.

9.8 Acceptance of Responsibility

The Respondent may choose to accept responsibility for the Prohibited Conduct prior to, or during the course of, an investigation by submitting a written statement accepting responsibility to the Title IX Coordinator or designee. If the Respondent is a student

and accepts responsibility for the Prohibited Conduct, the matter will be referred to the Student Conduct Administrator for the determination of the appropriate sanction(s) in accordance with these Procedures. If a Respondent is an employee and accepts responsibility, the Title IX Coordinator or designee will refer the matter to the Provost (for faculty Respondents) or Vice President for Human Resources (for non- faculty staff Respondents) to determine the appropriate sanction(s).

A Respondent who accepts responsibility for the Prohibited Conduct shall waive all rights to an investigation, determination of responsibility by the investigator, and any appeal except that the Respondent may appeal the sanction(s) imposed.

9.9 Withdrawal of Complaint

The Complainant may withdraw their complaint any time prior to the investigator issuing the Final Investigation Report. Withdrawing the complaint, will in most circumstances, end the University's investigation. The University, however, reserves the right to move forward with the complaint, even after the Complainant withdraws it, when circumstances require such action in order to protect the interests and safety of the University community.

9.10 Prior and Subsequent Conduct

Prior and subsequent conduct may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct, 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 determination of relevance of pattern evidence will be based on an assessment of whether the prior or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar Prohibited Conduct. Such prior or subsequent conduct may also constitute a violation of other University policies, in which case the Respondent may be subject to additional sanctions. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

9.11 Prior Sexual History

The sexual history of either party will never be used to prove character or reputation. However, prior sexual history may be considered under the following limited circumstances:

- Where there was a prior or ongoing relationship between the parties and the Respondent asserts that consent was sought and given during the incident under investigation. Prior sexual history between the parties may be relevant under these circumstances to assess the manner and nature of communication between the parties. However, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act; and consent on one occasion, does not, by itself, constitute consent on a subsequent occasion.
- To establish a pattern or practice of conduct similar in nature by the Respondent.

When the investigator intends to consider evidence of prior sexual history as part of the investigation, such evidence will be included in the preliminary investigation report and the parties will have an opportunity to challenge its relevance and whether it should be considered in the investigator's determination of responsibility.

9.12 Relevance

The investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. In general, the investigator will not consider statements that are personal opinion rather than direct observations or reasonable inferences from the facts or statements as to a party's general reputation for any character trait.

9.13 Preliminary Investigation Report

At the conclusion of the investigation, the investigator will prepare a preliminary investigation report, which details the relevant content from the interviews conducted and evidence gathered, but does not include a determination of whether a Policy violation occurred. The parties will have equal opportunity to review the preliminary investigation report, to meet with the investigator, to submit additional comments and information to the investigator, to identify any additional witnesses or evidence for the investigator to pursue, and submit any further questions that they believe should be directed by the investigator to the other party or any witness. The investigator or designee will arrange for the parties to separately review the preliminary investigation report. To balance due process and privacy obligations, the parties will not receive a written or electronic copy of the preliminary investigation report. In addition, they may not photograph or copy the preliminary investigation report. The parties, however, are permitted to take notes on the content and ask any questions to the investigator or designee. When a party is unable to review the preliminary investigation report in-person, at the Title IX Coordinator or designee's discretion, the party may receive a copy of the report in a redacted format.

The parties will have five (5) business days from the date of the notice to review the preliminary investigation report to submit their written response to the investigator. This is the final opportunity for the parties to identify any additional information or witnesses and to review their statements for accuracy. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the investigator at this juncture will not be considered in the determination of responsibility.

9.14 Investigative Finding

Unless there are significant additional investigative steps requested by the parties or identified by the investigator, within five (5) business days after receipt and consideration of additional comments, questions, and/or information from the parties, the investigator will issue a final investigation report, which will include a determination as to whether the Respondent is responsible for violation(s) of the Policy.

The determination of responsibility will be based on the investigator's assessment of the evidence gathered during the investigation and apply the preponderance of the evidence standard. All information relied on by the investigator shall be included in the final investigation report. If the investigator determines that the Respondent is responsible for violating the Policy, the investigator will recommend sanctions and remedies to the Title IX Coordinator. If the investigator determines that the Respondent is not responsible for violating the Policy, then the investigator may recommend additional remedies for the Complainant that do not unduly burden or prejudice the Respondent.

A Notice of Investigative Finding shall be issued to the parties within five (5) business days following the investigator's submission of the final investigation report to the Title IX Coordinator. The Notice shall contain the Investigator's determination of responsibility and advise the parties that the final investigation report is available for their review. If the Respondent is found not responsible for violating the Policy, the Notice of Investigative Finding will also include procedures for appeal. If the Respondent is found responsible for violating the Policy, the Notice of Investigative Finding will explain the process for determining sanctions.

9.15 Determining Sanctions

9.15.1 **When the Respondent is an Employee**

When an employee has been found responsible for violating the Policy, the final investigation report will be sent to the appropriate University official for determining sanction(s). When the Respondent is a faculty member, the University Provost will

determine the appropriate sanction(s) unless a different process is required under the Faculty Handbook. When the Respondent is a non-faculty staff member, the Vice President of Human Resources will determine the appropriate sanction(s) unless a different process is required under any applicable collective bargaining agreement. The University official responsible for determining sanction(s) shall consider the factors detailed in Section 10.4 of these Procedures and will consult with the Title IX Coordinator in determining the appropriate sanction(s). The Title IX Coordinator, in cooperation with the appropriate University official, will also confirm that appropriate non-disciplinary remedies have been provided to the Complainant. Within seven (7) business days of the date of the Notice of Investigative Finding, the Provost (for faculty respondents) and the Vice President of Human Resources (for non-faculty staff respondents) shall impose all appropriate sanctions that do not require the use of additional processes and then, if applicable, refer the matter for further action in accordance with the appropriate policy, handbook, and/or collective bargaining agreement.

9.15.2 When the Respondent is a Student or Student Organization

When a student or student organization and has been found responsible for violating the Policy, the Student Conduct Administrator will determine the appropriate sanction(s). The Student Conduct Administrator will hold an administrative hearing to determine the sanctions and remedies within three (3) business days of receipt of the Notice of Investigative Finding from the Title IX Coordinator.

The administrative hearing is not a re-investigation of the complaint. Rather, the administrative hearing is intended to allow the parties to make a statement and provide information that should be considered by the Student Conduct Administrator in determining the appropriate sanction(s) and remedies. The Complainant may describe the impact of the incident of Prohibited Conduct and their preference on sanctions (“Impact Statement”). The Respondent may explain the factors that they believe should mitigate or otherwise be considered in determining the sanctions imposed (“Mitigation Statement”). The Student Conduct Administrator shall make a decision as to sanctions based upon a review of the final investigation report, the factors detailed in Section 10.4 of these Procedures, and any Impact Statement and Mitigation Statement. In consultation with the Title IX Coordinator, the Student Conduct Administrator may also impose new or continuing remedial and protective measures in addition to any sanction(s) imposed.

Upon request, a party may participate in the hearing outside the presence of the other party (*e.g.*, by using video conference, visual barrier, or separate conference rooms). The parties also have the option of submitting a written statement in lieu of attending the administrative hearing. Any Impact Statement or Mitigation Statement must be received by the Student Conduct Administrator before the scheduled date and time of the administrative hearing. If either party fails to appear at the administrative hearing and does not submit a written statement, the hearing will proceed and sanctions shall be imposed without their input. The Student Conduct Administrator will make a decision as to sanctions at the administrative hearing. Within three (3) business days following the administrative hearing, the Student Conduct Administrator will send written notification to the parties of the decision on sanctions and any remedial and protective measures imposed, as well as the rationale for the sanctions and remedies, to the extent permitted or required by law.

If either party disagrees with the determination of responsibility and/or the sanction(s) imposed, they may file an appeal pursuant to Section 12 of these Procedures. If neither party appeals, the determination and sanction(s) become final on the day immediately following the expiration of the time for filing an appeal.

9.16 Time Frame

The University strives to complete the investigation within sixty (60) days of receiving a complaint. Breaks in the University

calendar (*e.g.*, summer, spring break, winter break) and extenuating circumstances may affect the time frame, including extension beyond sixty (60) days. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, or other unforeseen circumstances. Any extension of the sixty (60) day time frame, and the reason for the extension, will be shared with the parties in writing.

10. SANCTIONS

The Policy prohibits a broad range of behaviors, which are serious in nature. In keeping with the University's commitment to foster a learning and work environment that is safe, inclusive, and free from Prohibited Conduct, these Procedures provide the University with wide latitude in the imposition of sanctions. The imposition of sanctions is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and legal obligations. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some behavior, however, is so egregious in nature, harmful to the individuals involved, or so deleterious to the educational process that it requires severe sanctions, including suspension, expulsion, and termination of employment from the University.

10.1 Types of Sanctions when the Respondent is an Employee

Sanctions may be imposed individually or in combination and may include, but are not limited to, the following:

- Reprimand – including verbal and written reprimands
- Loss of supervisory responsibilities
- Reassignment of duties
- Transfer to a different department and/or position
- Suspension with or without pay
- Loss of rank or position
- Prohibition from participating in grading, honors, recommendations, reappointment, and promotion decisions, or other evaluations of Complainant
- Demotion in rank and/or pay
- Denial of salary increase
- Restriction on access to University facilities, resources, or activities (including student activities and University organizations)
- Termination of employment

10.1.1 Disciplinary Limitations and Grievance Rights

University System of Maryland (USM) policies and procedures, state law, and/or collective bargaining agreements may require the University to use additional processes before taking employment-related actions against Respondents. Where a Respondent is covered by such a policy, law, or contract, the investigation and determination of whether Respondent is responsible for the alleged Policy violation(s) will proceed in accordance with these Procedures, except that the Provost (for faculty respondents) and Vice President of Human Resources (non-faculty staff respondents) will impose all appropriate sanctions that does not

require the use of additional processes and then refer the matter, if applicable, for action under the additional processes. Nothing in these Procedures abrogates a Respondent's grievance rights based on their employment classification and/or collective bargaining agreement. Employees may not grieve remedies that do not constitute formal disciplinary action (*e.g.*, No Contact Directive, mandatory counseling/training, restrictions on access to University facilities, resources, or activities). The University's sanction(s) will be considered complete with the Provost or Vice President of Human Resource's imposition of sanction(s) and referral. The Title IX Coordinator or designee shall promptly notify the Complainant if any additional processes or grievance procedures alter the sanction(s) imposed under these Procedures.

10.2 Types of Sanctions when the Respondent is a Student

Sanctions may be imposed individually or in combination and may include, but are not limited to, the following:

10.2.1 **Sanctions that Impact a Student's Status**

Sanctions that affect a student's status with the University include:

Expulsion. Expulsion constitutes permanent separation of the Respondent from the University and must be approved by the Vice President of Student Affairs. Any student who is expelled is not entitled to any tuition or fee refund and may not re-enroll or be re-admitted to the University.

Suspension. Suspension involves separation of the Respondent from the University for a specified period of time and must be approved by the Vice President of Student Affairs. This type of sanction anticipates that the student may eventually return to the University if applicable conditions are satisfied. In particular cases, the student may also be barred from the University premises during the period of suspension.

Disciplinary Probation. Disciplinary probation means the Respondent may remain at the University but may be required to satisfy certain conditions or requirements during the probationary period. A student on disciplinary probation may be required to report regularly to a designated University administrator and/or be barred from holding any office or participating in any activity in which the student represents the University, including athletics or other competitive teams, or from participating in any University-recognized student organizations either within or outside the University community. A sanction of suspension or expulsion will be strongly considered for a Respondent who is found responsible of violating the Policy or provisions of the Student Code of Conduct while on disciplinary probation.

10.2.2 **Sanctions that Do Not Impact a Student's Status**

Sanctions that do not affect a student's good standing status with the University include:

Educational Requirements. Completion of projects, programs, training, or other requirements designed to help the student manage behavior and understand it was inappropriate.

No Contact Orders. Compliance with No Contact Orders that limit access to specific University areas or forms of contact with particular persons.

Housing Restrictions. Exclusion from University housing or change in housing arrangements. Any student who has their housing contract cancelled shall not be entitled to any housing deposit or fee refund.

Disciplinary Reprimand. A disciplinary reprimand involves a formal written warning to the student that further misconduct may result in more serious sanctions.

Community Service. Completion of a set number of hours of work within the University or local community with the intent of correcting behavior or as a learning experience.

Loss of Privileges. Limitation on University-related activities for a specified period of time, consistent with the Policy violation, including, but not limited to ineligibility to serve as an officer or member of any University organization or to participate in intercollegiate competition.

Monetary Fine. A fine up to \$150.00 may be assigned in certain cases and in particular when the Respondent is referred to educational programs or other behavioral interventions to prevent further inappropriate conduct.

Failure to comply with any of the sanctions imposed may result in further disciplinary action that could impact Respondent's status as a student at the University.

10.3 Types of Sanctions for Student Organizations

Sanctions that may be imposed when a Policy violation occurs as part of an organization's program or activity include, but are not limited to:

Educational Requirements. Completion of projects, programs, training, or other requirements designed to help members of the organization or group to manage behavior and understand it was inappropriate.

Notification to National or International Office. Involves sending written notification to an organization's national and/or international office informing them of organization's violation of the Policy.

Removal of Officers or Specific Members. Involves removing officers and/or specific members involved in engaging in or being complicit in Prohibited Conduct.

Disciplinary Reprimand. A disciplinary reprimand involves a formal written warning to the student organization that further misconduct may result in more serious sanctions.

Monetary Fine. A monetary fine may be assigned in certain cases and in particular when the organization or its members are referred to educational programs or other behavioral interventions to prevent further inappropriate conduct.

Suspension. Suspension involves withdrawal of an organization's recognition by the University for a stated period of time. Suspension shall result in complete suspension of activities of the group during the stated period of time and may also include conditions for removal of suspension.

Dissolution. Organizational dissolution involves permanent withdrawal of recognition by the University, denial of the use of University facilities or funds, and official dissolution of the organization on the campus.

10.4 Imposition of Sanctions

The type of sanction(s) imposed for a Policy violation shall be reviewed on an individual basis and based on the unique facts and circumstances of the reported Prohibited Conduct. In determining the appropriate sanction(s), the University will consider the following:

- The nature and the severity of the Policy violation;
- The impact of the misconduct on the Complainant;

- The impact or implications of the misconduct within the University community;
- Respondent's prior relevant disciplinary history;
- Respondent's relevant criminal record;
- Mitigating factors articulated by Respondent;
- The maintenance of a safe, nondiscriminatory and respectful University environment; and
- Any other mitigating, aggravating, or compelling factors.

10.5 Other Conduct Prohibited by the University

Nothing in these Procedures prevents the University from imposing disciplinary action against a Respondent for misconduct which does not constitute a violation of the Policy, but may violate provisions of the Student Code of Conduct or other University policies.

The University reserves its right to take such action as it deems appropriate to further its educational mission or to protect the safety and security of the University community, including its authority to terminate at-will employees immediately, with or without cause.

11. **REMEDIES**

The Title IX Coordinator or designee will identify reasonable long-term or permanent remedies to address the effects of the conduct on the Complainant, restore the Complainant's safety and wellbeing, and maximize the Complainant's educational and employment opportunities. Such remedies should seek to restore the Complainant, to the extent possible and within reason, all benefits and opportunities lost as a result of the Prohibited Conduct. The Title IX Coordinator or designee will also identify remedies to address the effects of the conduct on the University community. Remedies that may be implemented include, but are not limited to:

- Imposing or extending a No Contact Order/Directive
- Imposing or extending academic, housing, and/or employment modifications
- Required counseling and/or mandatory education and training to address the Prohibited Conduct
- Increased monitoring, supervision, and/or security at locations or in connection with activities where the Prohibited Conduct occurred or is likely to occur
- Conducting targeted or broad-based educational programming or training for relevant individuals or groups
- Any other remedial or protective measures that are tailored to achieve the goals of the Policy.

The Title IX Coordinator or designee will consider the appropriateness of remedies on an ongoing basis to ensure the safety and wellbeing of the parties throughout the process. Long-term remedies may include extending or making permanent any interim measures or implementing additional measures tailored to achieve the goals of the Policy. Many of the remedies and support that a Complainant might need after a determination of responsibility will have already been provided as interim measures, including but not limited to academic, housing, and employment modifications. The Title IX Coordinator or designee will in all cases, consider whether there is a need for additional remedies.

12. APPEAL

12.1 Grounds for Appeal

The Complainant and Respondent each have the right to appeal the investigative finding and/or the sanction(s) imposed. However, in University-initiated complaints, only the Respondent has the right to appeal. Mere dissatisfaction with the outcome of an investigation or imposition of sanctions are not valid grounds for appeal.

The sole grounds for appeal are:

- (1) Insufficient evidence to support the investigator's determination.
- (2) Procedural error which had a prejudicial effect upon the outcome (*e.g.*, substantiated bias by investigator, material deviation from established procedures that prevented a fair and impartial investigation).
- (3) The discovery of new evidence that could not have been discovered by a reasonably diligent party during the investigation and which would change the outcome. Failure to participate or cooperate during the University's investigation is not a sufficient basis for appeal.
- (4) The sanction imposed is substantially disproportionate to the severity of the Policy violation considering the relevant aggravating and/or mitigating factors.

12.2 Stay of Sanctions Pending Appeal

When a party appeals the investigative finding and/or sanction(s), the sanction(s) is stayed until the appeal is complete, but any interim measures imposed will continue pending the outcome of the appeal. If the Respondent is a student and the sanction being appealed includes suspension or dismissal from the University, the Respondent is restricted to attending scheduled classes only and is not permitted to participate in privileged or extra-curricular activities during the appeal process. The Title IX Coordinator or designee, in consultation with appropriate University officials, may impose additional remedies while the appeal is pending to ensure a safe and non-discriminatory learning and work environment.

Nothing in this section shall preclude the University from imposing an interim suspension and/or loss of privileges pending the outcome of an appeal.

12.3 Requests for Appeal

Appeals must be filed with within five (5) business days of the date of the Notice of Investigative Finding or if the Respondent was found responsible for violating the Policy, within five (5) business days of the hearing to determine sanctions. A party requesting an appeal must complete the "Appeal Packet" located on the Office of Gender Equity's website www.frostburg.edu/titleix/policy. Appeals submitted after the five (5) business day time period will be denied and the investigator's determination and any sanction(s) shall be final and conclusive. The Title IX Coordinator or designee shall notify the appellee if any appeal request is filed by the other party.

12.4 Review of Appeal Request

The Title IX Coordinator or designee will forward the completed appeal packet to the Chair of the Appeal Board. The Chair will then review the completed appeal packet to determine whether: (1) the appeal request is timely, and (2) the appeal is based on one of the four limited grounds for appeal. The Chair shall reject the appeal request if both conditions are not met. Absent extenuating or unusual circumstances, the Appeal Board Chair will notify the Title IX Coordinator and the parties within five (5)

business days of receiving the appeal packet whether the request has been granted or rejected. The decision of the Appeal Board Chair is final.

If an appeal request is granted, the Title IX Coordinator or designee will forward to the Appeal Board Chair: (i) the appeal packet, (ii) the final investigation report, (iii) party and witness summary statements given during the investigation, (iv) decision on sanctions, (v) the parties' impact and mitigation statements, and (vi) any other materials reviewed during the investigation to determine responsibility and impose sanctions. The aforementioned documents become the record on appeal. The Chair of the Appeal Board shall send a Notice of Hearing to both parties that provides the date, time, and place of the hearing as well as the names of the individuals who will serve on the Appeal Board. In general, the hearing will be scheduled within ten (10) business days of the date of the Notice of Hearing, subject to any extension for good cause at the discretion of the Appeal Board Chair. Any extension and reason for extension will be shared with the parties in writing.

If the request for appeal is denied, the investigator's determination and any sanctions imposed become final.

12.5 Appeal Board

An appeal is reviewed by a four (4) person board ("Appeal Board"), consisting of the Student Conduct Administrator, Director of EEO/ADA, and two members from a pool of faculty, staff, and students who have been specially trained to hear cases involving Prohibited Conduct. Members of the Appeal Board participate in annual training that addresses, but is not limited to, the Policy and these Procedures, the dynamics of sexual harassment, sexual violence, relationship violence, and stalking, factors relevant in determining credibility, the appropriate manner in which to receive and evaluate sensitive information, and the evaluation of consent and incapacitation.

The Chair presides over and is a non-voting member of the Appeal Board. When the Respondent is an employee, the Chair of the Appeal Board shall be the Director of EEO/ADA or designee. When the Respondent is a student, the Chair of the Appeal Board shall be the Student Conduct Administrator or designee. The Chair provides consistency in the process and is authorized to take reasonable measures to maintain control over the hearing to elicit relevant facts, prevent harassment of participants, to ensure the proceedings are not disrupted, and the interests of fairness are served. The Appeal Board Chair also drafts the Board's decision.

12.6 Standard of Review

An appeal is not a de novo review and is limited to the four possible grounds for appeal. The appellant, appellee, and investigator will have the opportunity to be heard, present information for the Board's consideration, and respond to any questions from members of the Appeal Board.

The Appeal Board shall render a decision applying the following principles:

- The burden of proof lies with the appellant;
- Appeals are not intended to allow for a reinvestigation of the complaint;
- The review shall be prompt and narrowly tailored to the specific grounds requested for appeal; and
- The final investigation report and any sanctions are presumed to be reasonable and just.

12.7 Hearing Procedures

Generally, a hearing before the Appeal Board will proceed in the following order:

- The Chair opens the hearing
- The appellant presents their appeal
- The appellee presents response to the appeal
- The investigator presents information about the evidence collected during the investigation and the basis for their decision
- Members of the Appeal Board may ask questions to the appellant, appellee, and investigator. At the discretion of the Chair, the parties and investigator may raise questions about or comment on the evidence. The parties are permitted to directly question the investigator, but may not directly question one another. Questions will be made through the Chair who has the discretion to reframe or disallow any questions that are irrelevant, redundant, or otherwise inappropriate.
- Appellant makes a closing statement
- Appellee makes a closing statement

12.8 Outcome of Appeal

Any decision of the Appeal Board shall be by majority vote. How each member voted will not be shared with the parties. The Appeal Board may:

- Affirm or reverse the investigative finding;
- Reduce or increase the sanction(s); and/or
- Remand the case for further consideration or a new investigation.

Appeals are not an opportunity for the Appeal Board to substitute their judgment for that of the original decision-maker merely because they disagree with the finding and/or sanction(s). The Appeal Board will defer to the investigator's determination of whether there was a Policy violation and only reverse the original determination if there is clear error. The Appeal Board will only modify a sanction if there is a compelling justification to do so.

If the Appeal Board remands the matter back for reconsideration or a new investigation, the Title IX Coordinator shall appoint the original investigator to handle the matter. A new investigator will be appointed only in extraordinary cases where the Appeal Board determines that any errors cannot be cured by returning the matter to the original investigator.

In most cases, members of the Appeal Board will deliberate and render a decision at the hearing. The Chair will issue the written decision of the Appeal Board within five (5) business days following the conclusion of the Board's deliberations. When the Respondent is a student, the decision by the Appeal Board is final and not subject to further review or appeal. When the Respondent is an employee, the decision of the Appeal Board may be subject to further review pursuant to any rights afforded to the employee through the USM and/or University procedures and/or collective bargaining agreements.

13. **FINAL OUTCOME AND POST RESOLUTION FOLLOW UP**

After the investigative finding becomes final and all appeals, if any, are exhausted, the Title IX Coordinator or designee shall issue a Notice of Final Outcome, in writing, to the parties.

The Notice of Final Outcome will include: (i) the Policy violations (if any) for which the Respondent was found responsible or not

responsible, (ii) the rationale for the investigator's determination as set forth in the final investigation report, (iii) the sanction(s) imposed against the Respondent (if any), (iv) the rationale for such sanction(s), and (v) any protective measures implemented with respect to the Respondent and/or the University community. Notice to the Complainant will include any sanction(s) imposed against the Respondent that directly affect the Complainant such as suspension or expulsion from the University and any remedial measures that will be provided to Complainant. Issuance of the Notice of Final Outcome completes the investigation and resolution of the complaint and is not subject to further appeal.

After a sanction or remedy is issued, the Title IX Coordinator or designee will periodically contact the Complainant to ensure the Prohibited Conduct has ended and to determine if additional remedies are necessary. The Complainant may decline future contact. The Title IX Coordinator or designee will also periodically contact the Respondent to ensure compliance with any sanctions that have been imposed. Any violation by the Respondent of a sanction or protective measure imposed under the Policy or a failure by a University employee to provide a specified remedy should be reported to the Title IX Coordinator.

14. CONFLICT OF INTEREST

The University does not allow conflicts of interest, real or reasonably perceived, by those investigating or resolving incidents under the Policy and these Procedures. A conflict of interest exists when an individual's knowledge of the matter or personal or professional relationships with the Complainant, Respondent, or witnesses would preclude the individual from being able to investigate or adjudicate the case fairly and impartially. Investigators and other individuals responsible for resolving complaints under these Procedures must disclose any potential conflict of interest they may have in a particular case to the Title IX Coordinator prior to participating in the University's investigation and resolution process.

The names of the investigator and the individuals who will serve on any Appeal Board will be provided to the parties prior to the initiation of an investigation or appellate proceeding. A party may challenge an individual appointed to serve as an investigator or member of the Appeal Board by submitting a written challenge to the Title IX Coordinator. Such challenge must be raised no later than two (2) business days after receiving notice of the identity of the investigator or Appeal Board members and must clearly state the grounds to support a claim of conflict of interest, bias, or an inability to be fair or impartial. Failure to object within the two (2) business day notice period eliminates the possibility of appealing the outcome of an investigation or proceeding based on conflict of interest, bias, or lack of impartiality.

15. PRIVACY

The investigation and resolution of complaints of Prohibited Conduct shall be conducted in a private manner, except insofar as information needs to be disclosed in order for the University to effectively investigate an incident or take corrective action. While discretion is important and helps ensure the integrity of the process, the parties are not restricted from discussing and sharing information related to the incident, their participation in the investigation and resolution process, or any outcome under these Procedures. Appeal Hearings are closed to the public.

16. RECORD RETENTION

Records related to the investigation and resolution of reported incidents of Prohibited Conduct are maintained by the Title IX Coordinator for seven (7) years. The Office of Student Affairs shall maintain records of any sanctions and/or remedies in accordance with the University's record retention schedule and standard University protocols regarding retention of student conduct files. The Office of Human Resources shall maintain records of any discipline and/or remedies in accordance with the University's record retention schedule and standard University protocols regarding retention of personnel records.