RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY PROHIBITING SEXUAL HARASSMENT, DISCRIMINATION, AND RETALIATION (Hereinafter the "Resolution Process")

TABLE OF CONTENTS

I. Preliminary Resolution Steps 3
A. *Overview* 3
B. *Collateral Misconduct* 4
C. *Notice/Complaint* 4
D. *Initial Assessment* 4
E. *Violence Risk Assessment* 6
F. *Dismissal (Mandatory and Discretionary)* 6
G. *Counterclaims* 7
J. *Advisors in the Resolution Process* 7
1. Who Can Serve as an Advisor 8
2. Advisor's Role in the Meetings and Interviews 8
3. Advisors in Hearings/Seattle University-Provided Advisor 8
4. Advisor Violations of Seattle University Policy 8
5. Sharing Information with the Advisor 9
6. Privacy of Records Shared with Advisor 9
7. Expectations of an Advisor 9
8. Expectations of the Parties with Respect to Advisors 10
9. Assistance in Securing an Advisor 10
II. Title IX Sex-Based Misconduct Federal Regulations Process ("Process A") 10
A. *Resolution Proceedings* 10
1. Informal Resolution 10
2. Alternative Resolution Approaches 11
3. Respondent Accepts Responsibility for Alleged Violations 12
B. *Formal Grievance Process* 13
1. Notice of Investigation and Allegations 13
2. Resolution Timeline 13

3. Appointment of Investigator 13
4. Impartiality 13
5. Investigation Timeline 14
6. Investigation Process Delays and Interactions with Law Enforcement 14
7. Investigation Process Steps 15
8. Witness Role and Participation in the Investigation 15
9. Interview Recording 15
10. Evidentiary Considerations 15
11. Referral for Hearing 15
12. Additional Evidentiary Considerations in the Hearing 16
13. Hearing Notice 16
14. Hearings for violations that occur near or after the end of an academic term 16
15. Pre-Hearing Preparation 16
16. Joint Hearings 17
17. Hearing Procedures 17
18. Refusal to Submit to Questioning; Inferences 19
19. Hearing Recordings 19
20. Deliberation and Determination 19
21. Sanctions 19
22. Notice of Outcome 21
23. Withdrawal or Resignation Before Complaint Resolution 21
24. Appeals 22
a. Grounds for Appeal 22
b. Sanctions Status During the Appeal 23
c. Appeal Considerations 24
25. Long-Term Remedies/Other Actions 24
26. Failure to Comply with Sanctions and/or Responsive Actions 24
III. Process B 25
A. Overview 25

B. Initial Evaluation 25

C. Helping a Complainant to Understand Options 26

D. Title IX Coordinator Authority to Initiate a Complaint 27

E. Informal Resolution 28

1. Supportive Resolution 28
2. Educational Conversation 28
3. Accepted Responsibility 29
4. Alternative Resolution 29

F. Hearing Resolution Process 29

1. Notice of Investigation and Allegations 29
2. Resolution Timeline 29
3. Impartiality 30
4. Investigator Appointment 30
5. Witness Role and Participationin the Investigation 31
6. Interview Recording 31
7. Evidentiary Considerations 31
8. Investigation 31
9. Live Hearings 32
10. Hearing Notice 34
11. Witness Participation 34
12. Hearing Procedures 35
13. Collateral Misconduct 36
14. Joint Hearings 36
15. Investigator Presentation of Final Investgation Report 36
16. Testimony and Questioning 36
17. Refusal to Submit to Questioning and Inferences 37
18. Hearing Recordings 37
19. Deliberations and Determination 38
20. Sanctions 38

21. Notice of Outcome 40
22. Withdrawal or Resignation BeforeComplaint Resolution 40
23. Appeal of Determination 41
24. Long-Term Remedies/Other Actions 45
25. Failure to Comply 45
26. Recordkeeping 45
IV. Accommodations and Support During the Resolution Process 46
V. Revision of these Procedures 46
VI. Title IX Partners 47

I. PRELIMINARY RESOLUTION STEPS

A. Overview

Except in cases concerning alleged sexual harassment involving only employees (which are resolved pursuant to the Human Resources Sexual Harassment Policy), Seattle University will act on any Notice/Complaint of a potential violation of the Policy Prohibiting Sexual Harassment, Discrimination, and Retaliation (the "Policy") that is received by the Title IX Coordinator or any other Official with Authority by applying the appropriate Resolution Process—known as either "Process A" or "Process B"—as determined by the Title IX Coordinator.

Subject to the above limitation regarding alleged sexual harassment involving only employees, in general, if some or all of the allegations in a complaint relate to the protections of Title IX as described in the 2020 Title IX Federal Regulations (defined as "Title IX Sex-Based Misconduct" in the Policy), then all allegations in the Complaint are resolved using Process A. All other Complaints under the Policy are resolved through Process B. Within the 2020 Title IX regulations, a set of technical dismissal requirements may apply as described below, but when a technical dismissal under the Title IX regulations is required, any remaining applicable allegations will proceed using the appropriate procedures, which may include resolution pursuant to Process B.

Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

Unionized/other categorized employees are subject to the terms of their agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations.

The Title IX Coordinator is responsible for coordinating the University's compliance with this Process.

B. Collateral Misconduct

Collateral Misconduct is defined to include potential violations of other Seattle University policies not incorporated into the Policy that occur in conjunction with alleged violations of the Policy, or

that arise through the course of the investigation, for which it makes sense to provide one resolution for all alleged misconduct. Thus, the collateral allegations may be included along with potential violations of the Policy, to be resolved jointly under the Resolution Processes described in this document. In such circumstances, the Title IX Coordinator may consult with Seattle University officials who typically oversee such conduct (*e.g.*, Human Resources, Integrity Formation, Academic Affairs) to solicit input as needed on what potential violations should be included, but doing so is within the discretion of the Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the Code of Student Conduct, Faculty Handbook, and Human Resources Policies.

C. Notice/Complaint

Upon receipt of a Formal Complaint or notice of an alleged policy violation by the Title IX Coordinator, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps Seattle University needs to take. The Title IX Coordinator will contact the Complainant to offer supportive measures and determine whether the Complainant wishes to file a Formal Complaint.

The Title IX Coordinator will then initiate at least one of three responses:

1) Offering supportive measures
2) An Informal Resolution (upon submission of a Formal Complaint if Process A applies)
3) A Formal Grievance Process including an investigation and a hearing (upon submission of a Formal Complaint if Process A applies)

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

D. Initial Assessment

Upon receipt of Notice, or a Formal Complaint of an alleged Policy violation, the Title IX Coordinator engages in an initial assessment, typically within seven (7) business days.
The initial evaluation typically includes:

- The Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
    - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves.
- If a Formal Complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.

- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and grievance process.
    - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their needs, determine appropriate supports, and implements them accordingly. If no Formal Grievance Process is initiated initially, the Complainant can elect to initiate one later, if desired.
    - If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution[1] and which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
    - If a Formal Grievance Process is preferred by the Complainant or the complaint is not suitable for Informal Resolution, the Title IX Coordinator determines if the alleged misconduct falls within the scope of the 2020 Title IX regulations (i.e., is "Title IX Sex-Based Misconduct" under the Policy):
- If the Title IX Coordinator determines that the alleged misconduct is Title IX Sex-Based Misconduct under the Policy, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address, based on the nature of the complaint:
    - an incident, and/or
    - a pattern of alleged misconduct, and/or
    - a culture/climate issue
- If the Title IX Coordinator determines that the alleged misconduct is not Title IX Sex-Based Misconduct, the Title IX Coordinator will "dismiss" that aspect of the complaint, if any, and then assesses which policies may apply, which Resolution Process is applicable, and will refer the matter accordingly, including referring the matter for resolution under Process B, if applicable, or for resolution under the Human Resources Sexual Harassment Policy. Please note that dismissing a complaint under the 2020 Title IX regulations is solely a procedural requirement under Title IX, which does not limit Seattle University's authority to address a complaint with an appropriate process and remedies, including Process B, if appropriate.

E. Violence Risk Assessment

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the University's Threat Assessment Team as part of the initial assessment.

[1] Per the 2020 Title IX regulations, recipients are prohibited from Informal Resolution of a complaint by a student against an employee if the allegations as reported would fit within Title IX Sex-Based Misconduct.

A VRA authorized by the Title IX Coordinator should occur in collaboration with the threat assessment team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations.

F. Dismissal (Mandatory and Discretionary)

Under the 2020 Title IX regulations, Seattle University must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the Formal Complaint would not constitute Title IX Sex-Based Misconduct, even if proved;
2. The conduct did not occur in an educational program or activity controlled by Seattle University (including buildings or property controlled by recognized student organizations), and/or Seattle University does not have control of the Respondent;
3. The conduct did not occur against a person in the United States; or
4. At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in Seattle University's education program or activity, and based on the available information, the Title IX Coordinator has determined that they do not need to sign a Formal Complaint on behalf of Seattle University.[2]

Seattle University may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

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

A Complainant who withdraws a complaint may later request to reinstate it or refile it.

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

This dismissal decision is appealable by any party under the procedures for appeal, below. The decision to not dismiss is also appealable by any party claiming that a dismissal is required or appropriate.

When a technical dismissal under the 2020 Title IX regulations is required for some of the allegations, any remaining applicable allegations will proceed utilizing Process A or the Human

[2] Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable unless the Title IX Coordinator signs the complaint in the event the Complainant cannot/will not do so.

Resources Sexual Harassment Policy, as applicable. If all allegations are technically dismissed, Seattle University will proceed with Process B (or the Human Resources Sexual Harassment Policy) for any remaining allegations related to the Policy. Process B can also apply to Sexual Harassment (including Sexual Assault, Dating Violence, Domestic Violence, and Stalking) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

G. Counterclaims

Seattle University is obligated to ensure that the grievance process is not abused for retaliatory purposes. Thus, counterclaims made with retaliatory intent are not permitted. Seattle University permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith.

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

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

H. Advisors in the Resolution Process

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Resolution Process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.[3]

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

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

1. Who Can Serve as an Advisor

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

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

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

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

Parties also have the right to choose not to have an Advisor in the initial stages of the Resolution Process, prior to a hearing under Process A.

2. Advisor's Role in Meetings and Interviews

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

Seattle University cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not retain or cannot afford an attorney, Seattle University is not obligated to provide an attorney.

3. Advisors in Hearings/Seattle-University-Provided Advisor

Under the 2020 Title IX Regulations (and therefore Process A), a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, Seattle University will appoint a trained Advisor for the limited purpose of conducting any questioning of the parties and witnesses.

4. Advisor Violations of Seattle University Policy

All Advisors are subject to the same Seattle University policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by Seattle University. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address Seattle University officials or Investigators in a meeting or interview unless invited to do so (*e.g.*, asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding during questioning.

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

Any Advisor who oversteps their role as defined by this Policy, or who refuses to comply with Seattle University's established rules of decorum for the hearing, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including Seattle University requiring the party to use a different Advisor or providing a different

Seattle University-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

5. Sharing Information with the Advisor

Seattle University expects that the parties may wish to have Seattle University share documentation and evidence related to the allegations with their Advisors. Seattle University provides a consent form that authorizes Seattle University to share such information directly with a party's Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before Seattle University is able to share records with an Advisor.

If a party requests that all communication be made through their attorney-Advisor, Seattle University will continue to communicate directly with the party but can copy the attorney-Advisor on all communication.

Advisors appointed by the University will not be asked to disclose details of their interactions with their advisees.

6. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Seattle University. Advisors may be asked to sign Non-Disclosure Agreements (NDAs). Seattle University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Recipient's privacy expectations.

7. Expectation of an Advisor

Seattle University generally expects an Advisor to adjust their schedule to allow them to attend Seattle University meetings, interviews, and hearings when planned, but Seattle University may change scheduled meetings, interviews, or hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

Seattle University may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting, interview, or hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

8. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least three (3) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor should be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least three (3) business days before the hearing.

9. Assistance in Securing an Advisor

Respondents may wish to contact organizations such as:

- Families Advocating for Campus Equality (http://www.facecampusequality.org)
- Stop Abusive and Violent Environments (http://www.saveservices.org)

Complainants may wish to contact organizations such as:

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

II. Title IX Sex-Based Misconduct Federal Regulations Process ("Process A")

A. Resolution Proceedings

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with Seattle University Policy.

Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, except for information the parties agree not to disclose as part of an Informal Resolution. Seattle University encourages parties to discuss any sharing of information with their Advisors before doing so.

The Formal Grievance Process is Seattle University's primary resolution approach unless Informal Resolution is elected by all parties and Seattle University.

1. Informal Resolution

Three options for Informal Resolution are detailed in this section. They include:

a. **Supportive Resolution**. When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.

b. **Alternative Resolution**. When the parties agree to resolve the matter through an alternative resolution mechanism including mediation, restorative practices, facilitated dialogue, etc., often before a formal investigation takes place.

c. **Accepted Responsibility**. When the Respondent accepts responsibility for violating the Policy, and desires to accept the recommended sanction(s) and end the Resolution Process.

To initiate Informal Resolution, a Complainant must submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

The parties may agree, as a condition of engaging in Informal Resolution, that statements made, or evidence shared, during the Informal Resolution process will not be considered in the Formal Grievance Process unless all parties' consent.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. The parties may not enter into an agreement that requires Seattle University to impose specific sanctions, though the parties can agree to certain restrictions or other courses of action. For example, the parties cannot require a student be suspended, but the parties can agree that the Respondent will temporarily or permanently withdraw. The only Informal Resolution Process that can result in sanctions levied by the institution is "Accepted Responsibility." The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

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

Seattle University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

2. Alternative Resolution Approaches

Alternative Resolution is an informal approach, including mediation, restorative practices, facilitated dialogue, etc. by which the parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Alternative Resolution approach.

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

- The parties' amenability to Alternative Resolution
- Likelihood of potential resolution, considering any power dynamics between the parties
- The nature and severity of the alleged misconduct
- The parties' motivation to participate
- Civility of the parties
- Results of a violence risk assessment/ongoing risk analysis
- Disciplinary history of the Respondent
- Whether an emergency removal is needed
- Skill of the Alternative Resolution facilitator with this type of complaint

- Complaint complexity
- Emotional investment/capability of the parties
- Rationality of the parties
- Goals of the parties
- Adequate resources to invest in Alternative Resolution (time, staff, etc.)

The ultimate determination of whether Alternative Resolution is available or successful is made by the Title IX Coordinator. The Title IX Coordinator is authorized to facilitate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors, including terms of confidentiality, release, and non-disparagement.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, referral to the conduct process for failure to comply). The outcome of complaints resolved by Alternative Resolution are not appealable.

3. Respondent Accepts Responsibility for Alleged Violations

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

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

This result is not subject to appeal once all parties indicate their written assent to all agreed upon resolution terms. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.[4]

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

[4] The parties may not want discussions that take place within Informal Resolution to be admissible in a later Formal Grievance Process, but essential facts must and do transfer from the informal process to the formal. Disclosing something in an informal setting to shield it from formal admissibility is a cynical strategy, so administrators should take care in determining the terms of any assurances of the confidentiality of the Informal Resolution.

B. Formal Grievance Process

1. Notice of Investigation and Allegations

The Title IX Coordinator will provide written Notice of the Investigation and Allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process. The NOIA is also copied to the Complainant, who may be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include specific information as outlined in the 2020 Title IX Federal Regulations.

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

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official Recipient records, or emailed to the parties' Seattle University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

2. Resolution Timeline

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

3. Appointment of Investigator

Once the decision to commence a formal grievance process is made, the Title IX Coordinator will appoint an Investigator to conduct the Investigation, usually within seven (7) business days of determining that an investigation should proceed.

4. Impartiality

Any individual materially involved in the administration of the Resolution Process including the Title IX Coordinator, Investigator(s), and Decision-makers may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine in their sole discretion whether the concern is reasonable and supportable. If so, another individual will be assigned. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Vice President for Diversity and Inclusion.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations

may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

Seattle University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a Policy violation by the applicable standard of proof (discussed below).

5. Investigation Timeline

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take many weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law enforcement involvement, etc. Seattle University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

6. Investigation Process Delays and Interactions with Law Enforcement

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

Seattle University will communicate the anticipated duration of the delay and reason to the parties in writing and provide the parties with status updates if necessary. Seattle University will promptly resume its Investigation and Resolution Process as soon as feasible. During such a delay Seattle University will implement supportive measures as deemed appropriate.

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

7. Investigation Process Steps

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

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. Recordings, transcripts, or summaries of interviews will be provided to the parties.

At the discretion of the Title IX Coordinator, investigations can be combined when complaints implicate a pattern, collusion, and/or other shared or similar actions.

8. Witnesses' Role and Participation in the Investigation

Witnesses (as distinguished from the parties) who are employees of Seattle University are required to cooperate with and participate in Seattle University's investigation and Resolution Process. Student witnesses and witnesses from outside the Seattle University community are

encouraged to cooperate with Seattle University investigations and to share what they know about a complaint.

9. Interview Recording

No person may audio or video record an investigation meeting or interview without approval of the Title IX Coordinator. If an Investigator elects to audio and/or video record interviews, all involved parties should be made aware of and consent to audio and/or video recording.

10. Evidentiary Considerations

Neither the investigation nor the hearing (discussed below) will consider: (1) incidents not relevant or not directly related to the possible violation(s), unless they evidence a pattern; or (2) questions and evidence about the Complainant's sexual predisposition; or (3) questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or to prove consent.

11. Referral for Hearing

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

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

The Title IX Coordinator will select an appropriate Decision-maker from the Pool of Title IX Partners and provide a copy of the investigation report and the file of directly related evidence.

The Decision-maker will not have had any previous involvement with the complaint.

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

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

12. Additional Evidentiary Considerations in the Hearing

Previous disciplinary action of any kind involving the Respondent should not be used unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility, as part of a progressive discipline system. This information is only considered at the sanction stage of the process and is not typically shared until then.

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

13. Hearing Notice

No less than ten (10) business days prior to the hearing,[5] the Title IX Coordinator will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

14. Hearings for violations that occur near or after the end of an academic term

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by Seattle University and remain within the 60-90 business-day goal for resolution. Employees who do not have 12-month contracts are still expected to participate in Resolution Proceedings that occur during months between contracts.

15. Pre-Hearing Preparation

After any necessary consultation with the parties, the Title IX Coordinator or Decision-maker will provide the names of persons who have been asked to participate in the hearing. All pertinent documentary evidence and the final investigation report will be provided to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator or have proffered a written statement or answered written questions, unless all parties and the Decision Maker assent to the witness's participation in the hearing. The same holds for any relevant evidence that is first offered at the hearing. If the parties and Decision Maker do not assent to the admission of evidence newly offered at the hearing, the Decision Maker may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.[6]

The parties will be given the name of the Decision-maker at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) business days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing.

The Title IX Coordinator will give the Decision-maker a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a

[5] Unless an expedited hearing is agreed to by all parties.
[6] 34 C.F.R. § 668.46(k)(3)(B)(3) requires "timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings."

Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10)-business-day period prior to the hearing, the parties have the opportunity for continued review and provide written comments on the final investigation report and available evidence, and the parties' comments may be shared with the Decision-maker in advance of the hearing or at the hearing and will be exchanged between each party by the Decision-maker or Title IX Coordinator.

16. Joint Hearings

In hearings involving more than one Respondent and/or involving more than one Complainant who has accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or complaint to be conducted separately, at their sole discretion. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

17. Hearing Procedures

At the hearing, the Decision-maker has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Policy.

Participants at the hearing may include the Decision-maker, the hearing facilitator the Investigator who conducted the investigation, the parties, Advisors to the parties, any called witnesses, the Title IX Coordinator, legal counsel, and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Decision-maker will answer all questions of procedure.

Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Decision-maker will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Decision-maker and the parties, and the witnesses will then be excused. The Investigator may remain present for the duration of the hearing.

The Decision-maker will explain the procedures and facilitates introductions. The Hearing Facilitator will attend to logistics for the hearing. The Investigator may present a summary of the final investigation report and may be present during the entire hearing process, but not during deliberations.

Neither the Parties nor the Decision-maker should ask the Investigator their opinion on credibility, recommended findings, or determinations, and Advisors and Parties will refrain from discussion

of or questions for Investigators about these assessments. If such information is introduced, the Decision-maker will direct that it be disregarded.

Complainants and Respondents will be permitted to provide an opening and closing statement during the hearing. The Decision-maker will first ask questions of the parties and witnesses, and then the Parties may ask questions of the parties and witnesses through their Advisors.

All questions are subject to a relevance determination by the Decision-maker. The Advisor will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Decision-maker upon request if agreed to by all parties and the Decision-maker). The proceeding will pause to allow the Decision-maker to consider the question (and state it if it has not already been stated aloud), and the Decision-maker will determine whether the question will be permitted, disallowed, or rephrased.

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

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

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

18. Refusal to Submit to Questioning; Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-maker(s) may not draw any inference <u>solely</u> from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

19. Hearing Recordings

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

The Decision-maker, the parties, their Advisors, and appropriate administrators of Seattle University will be permitted to review the recording or review a transcript of the recording, upon request to the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

20. Deliberation and Determination

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of proof. Deliberations are not recorded.

When there is a determination by the Decision-maker that the Respondent is responsible for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate Sanction(s). The Title IX Coordinator will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact or mitigation statements do not influence the determination of responsibility; they only potentially influence the Sanctions.

The Decision-maker will then prepare and provide the Title IX Coordinator with a written outcome letter detailing their determination, the rationale(s) explaining the decision(s), the Relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any Sanction(s) and rationales explaining the Sanction(s).

This statement will typically be submitted to the Title IX Coordinator within ten (10) business days from the conclusion of the hearing, unless the Title IX Coordinator grants an extension. The Title IX Coordinator will notify the Parties of any extension.

21. Sanctions

a. Student and/or Student Club or Organization Sanctions

The following are common Sanctions that may be imposed upon Students individually or in combination. Student and Recognized Student Club or Organization Sanctions are outlined in Section 3.4 of the Code of Student Conduct, and include:

- Disciplinary Warning
- Disciplinary Probation
- Interim Suspension
- Deferred Suspension
- Suspension
- Dismissal
- Residence Hall Suspension or Dismissal
- Limitation or Loss of Privileges

- Parent/Guardian Notification
- Educational and/or Developmental Sanctions
- Withholding Honors and/or Degrees
- Revocation of Admission and/or Degrees
- Restitution, Fines, and/or Fees

b. Employee Sanctions/Responsive/Corrective Actions

Sanctions for an Employee who has been determined to be responsible for violating the Policy include:

- Verbal or Written Warning
- Performance Improvement Plan
- Enhanced Supervision, Observation, or Review
- Required Training or Education
- Denial of Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer
- Schedule adjustments
- Reassignment
- Delay of (or referral for delay of) Tenure Track Progress
- Assignment to New Supervisor
- Restriction of Stipends, Research, and/or Professional Development Resources
- Suspension/Administrative Leave with Pay
- Suspension/Administrative Leave without Pay
- Termination

22. Notice of Outcome

Unless the time period is extended by the Title IX Coordinator, in their sole discretion, the Title IX Coordinator will provide the Parties with a written outcome notification within ten (10) business days of the conclusion of the Resolution Process. The outcome notification will specify the determination of responsibility for each alleged Policy violation, any applicable Sanctions (provided that Seattle University is permitted to share the sanction under to state or federal law), and the rationale, written by the Decision-maker, supporting the determination (to the extent Seattle University is permitted by state or federal law to share the determination and rationale).

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither Party appeals.

The Title IX Coordinator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official Seattle University records, or emailed to the Parties Seattle University-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

23. Withdrawal or Resignation Before Complaint Resolution

a. Students

Should a Respondent decide not to participate in the Resolution Process, the process will proceed to a reasonable resolution in their absence. Should a student Respondent permanently withdraw from Seattle University, the Resolution Process will typically end with a dismissal, as Seattle University will no longer have primary disciplinary jurisdiction over the withdrawn student. However, Seattle University may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

When a Respondent withdraws or leaves while the Resolution Process is pending, the Student may not return to Seattle University in any capacity until the Complaint is resolved and any Sanctions imposed are satisfied. If the Respondent indicates they will not return, the Title IX Coordinator has discretion to dismiss the Complaint. The Registrar and Office of Admissions will be notified, accordingly.

If the Student Respondent takes a leave of absence for a specified period of time (*e.g.*, one quarter or semester), the Resolution Process may continue via remote means. If found responsible, that Student is not permitted to return to Seattle University unless and until all Sanctions, if any, have been satisfied.

b. Employees

Should an employee Respondent resign with unresolved allegations pending, the Resolution Process typically ends with dismissal, as Seattle University will no longer have primary disciplinary jurisdiction over the resigned employee. However, Seattle University may continue the Resolution Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the matter is dismissed or pursued to completion of the Resolution Process, Seattle University will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for academic admission or rehire with Seattle University until the Complaint is resolved and any Sanctions imposed are satisfied, and the records retained by the Title IX Coordinator will reflect that status.

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

24. Appeals

A party may submit a written request for appeal ("Request for Appeal") to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

An Appeals Decision-maker will be designated by the Title IX Coordinator. Appeal Decision-makers may not have been previously involved in the Resolution Process for the complaint, including in any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeals Decision-maker to make an initial determination of whether the request states one of the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request states a basis for appeal and is timely filed.

a. Grounds for Appeal

Appeals may be made exclusively upon the following grounds:

i. A procedural irregularity that affected the outcome of the matter;

ii. New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;

iii. The Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter;

iv. The Sanctions are disproportionate to the outcome, considering the cumulative conduct/disciplinary record of the Respondent.

If any of the bases in the Request for Appeal do not meet the grounds herein, the request will be denied by the Appeal Decision-maker, and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the bases stated in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision Maker will notify all parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the original Decision-maker.

All other parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the original Decision-maker will be emailed a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a written response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Appeal Decision-maker to all parties for review and comment.

The non-appealing party (if any) may also choose to appeal upon receiving a copy of the Request for Appeal. If they choose to do so, they must also submit a Request for Appeal, which will subject to an initial review by the Appeal Decision Maker to determine whether it states one of the grounds for Appeal. If it does, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all parties. If any or all of the non-appealing party's Request for Appeal is not approved, the parties will be notified accordingly, in writing.

Neither party may submit any new requests for appeal after the party who initially requested an appeal, the Title IX Coordinator, the Investigator(s) and/or original Decision-maker(s) submit their response to the non-appealing party's Request for Appeal. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds for appeal, and the subsequent responses and the Decision-maker will render a decision within ten (10) business days, unless extended by the Title IX Coordinator in their sole discretion. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties within ten business days (unless extended by the Title IX Coordinator). The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result (provided Seattle University is permitted to share the sanction(s) under to state or federal law), and the rationale supporting the determination (to the extent Seattle University is permitted to share the rationale under state or federal law).

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

b. Sanctions Status During the Appeal

Sanctions imposed as a result of the determination are paused (i.e., not implemented) during the appeal process, and Supportive Measures may be maintained or reinstated until the appeal determination is made.

c. Appeal Considerations

- Appeals are not intended to provide a re-hearing of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).

- The Appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker(s) for reconsideration.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where an error cannot be cured by the original Investigator and/or Decision-maker or the Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new hearing with new Title IX Partners serving in the Investigator and Decision-maker roles.
- The results of a remand to a Decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases that result in reinstatement to Seattle University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

25. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any Sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term Remedies or actions with respect to the Parties and/or the Seattle University community that are intended to stop the Policy violation, remedy its effects, and prevent recurrence.

Seattle University will maintain the confidentiality of any long-term Remedies, actions, or measures, provided confidentiality does not impair Seattle University's ability to provide these services.

26. Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned Sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified. Failure to abide by the Sanction(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional Sanction(s), including suspension, dismissal, and/or termination from Seattle University. Supervisors are expected to enforce the completion of Sanctions actions for their Employees.

A suspension imposed for non-compliance with Sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

III. PROCESS B

Except in cases concerning alleged sexual harassment involving only employees (which are resolved pursuant to the Human Resources Sexual Harassment Policy), Process B applies when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed. If Process A is applicable, Process A must be applied in lieu of Process B.

Seattle University will act on any formal or informal allegation or notice of violation of the Policy that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in the Policy above.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing, discriminatory, or retaliatory conduct (*e.g.*, vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective Code of Student Conduct, Faculty Handbook, and Human Resources Policies.

A. Overview

Unless it is required to be resolved through Process A, Seattle University will act on any Notice, Complaint, or Knowledge of a potential violation of the Policy that is received by the Title IX Coordinator or any other Mandated Reporter by applying the Resolution Process described below. The terms used in this Process have the meanings described in the Policy unless otherwise noted.

The procedures below apply to all allegations of discrimination on the basis of Sex, including Harassment and Retaliation involving Students, staff, administrators, faculty members, or third parties. Unionized/other categorized Employees are subject to the terms of their agreements/Employees' rights to the extent those agreements do not conflict with federal or state compliance obligations. The Title IX Coordinator is responsible for coordinating the University's compliance with this Process.

B. Initial Evaluation

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Title IX Coordinator will initiate a prompt initial evaluation to determine Seattle University's next steps. This evaluation will typically occur within seven (7) business days of receiving the Notice, Complaint, or Knowledge of the alleged Policy violation. While the Title IX Coordinator is conducting the initial evaluation, or promptly thereafter, the Title IX Coordinator will contact the Complainant or the source of the Notice to offer Supportive Measures, provide information regarding resolution options, and determine how they wish to proceed.

The initial evaluation typically includes:

- Assessing whether the reported conduct could reasonably constitute a violation of the Policy.
    - If the conduct could not reasonably constitute a violation of the Policy, the matter will typically be dismissed from the Resolution Process, consistent with the dismissal provision below. If applicable, the conduct will be referred to the appropriate Seattle University office for resolution.
- Determining whether Seattle University has jurisdiction over the reported conduct, as defined by the Policy.

  - If the conduct is not within Seattle University's jurisdiction under this Policy, the matter will typically be dismissed from the Resolution Process, consistent with the dismissal provision below. If applicable, the conduct will be referred to the appropriate Seattle University office for resolution.
- Offering and coordinating Supportive Measures for the Complainant.
- Offering and coordinating Supportive Measures for the Respondent.
- Notifying the Complainant, or the person who reported the alleged violation(s), of the resolution process, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to make a Complaint.
- Notifying the Respondent of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

C. Helping a Complainant to Understand Options

If the Complainant indicates they wish to initiate a Complaint in a manner that can reasonably be construed as reflecting intent to make a Complaint, the Title IX Coordinator will help to facilitate the resolution of the Complaint, which will include:

Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:

- a supportive and remedial response, and/or
- Informal Resolution, or
- the Resolution Process described below.

The Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects to proceed with the Resolution Process below, and the Title IX Coordinator has determined the Policy applies and that Seattle University has jurisdiction, they will coordinate the appropriate Resolution Process, will provide the Parties with a Notice of Investigation and Allegation(s) (NOIA), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option (discussed below), the Title IX Coordinator will assess whether the matter is suitable for Informal Resolution and refer the matter, accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Title IX Coordinator), though the Complainant may elect to initiate the Resolution Process later, if desired.

D. Title IX Coordinator Authority to Initiate a Complaint

If the Complainant does not wish to proceed with the Resolution Process by submitting a Complaint, the Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer Supportive Measures and determine whether to initiate a Complaint themself. To make this determination, the Title IX Coordinator will evaluate the Complainant's request to determine whether there is a serious and imminent threat to someone's safety or whether Seattle University cannot ensure equal access to its education program or activity without initiating a Complaint. The Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of discrimination would occur if a Complaint is not initiated;
- The severity of the alleged discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary Sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is a Seattle University Employee;
- The scope of the alleged discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-maker in determining whether discrimination occurred;
- Whether Seattle University could end the alleged discrimination and prevent its recurrence without initiating its Resolution Process.

If deemed necessary, the Title IX Coordinator may consult with appropriate Seattle University Employees, and/or conduct a violence risk assessment to aid their determination whether to initiate a Complaint.

When the Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

This Resolution Process, consisting of Informal Resolution or Hearing Resolution, is Seattle University's chosen approach to addressing all forms of discrimination on the basis of Sex, as defined by the Policy. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinator's discretion.

Resolution proceedings are Private. All individuals present at any time during the Resolution Process are expected to maintain the Privacy of the proceedings in accordance with Seattle University Policy.

E. Informal Resolution

Through the Title IX Coordinator, Seattle University may offer the Parties an opportunity to resolve the Complaint through an informal resolution process, unless the Complaint includes an allegation that an Employee engaged in Sex-Based Harassment of a Student.

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a Final Determination, or the Title IX Coordinator may offer the option to the Parties, in writing. Seattle University will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, Seattle University will provide the Parties with a Notice of Investigation and Allegations ("NOIA") that explains:

- The allegations;
- The requirements of the Informal Resolution process;
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume Seattle University's Resolution Process;
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the resolution process arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties; and
- What information Seattle University will maintain, and whether and how it could disclose such information for use in its Resolution Process.

Seattle University offers four categories of Informal Resolution:

1. **Supportive Resolution**. When the Title IX Coordinator can resolve the matter informally by providing supportive measures designed to remedy the situation.
2. **Educational Conversation**. When the Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can assist the Complainant in their desire to confront the conduct.
3. **Accepted Responsibility**. When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to Sanctions, and the Complainant(s) and Seattle University are agreeable to the resolution terms.
4. **Alternative Resolution**. When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to,

mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator, Decision-maker, or Appeal Decision-maker.

It is not necessary to pursue Informal Resolution first in order to pursue a Hearing Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Hearing Resolution Process.

If an investigation is already underway, the Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Resolution Process, referral to Integrity Formation for failure to comply, application of the enforcement terms of the Agreement, etc.). The results of Complaints resolved by Alternative Resolution are not appealable.

If an Informal Resolution option is not available or selected, Seattle University will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

F. Hearing Resolution Process

1. Notice of Investigation and Allegations

Prior to an investigation, the Title IX Coordinator will provide the Parties with a detailed written NOIA. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

2. Resolution Timeline

Seattle University will make a good faith effort to complete the Resolution Process as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the process.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, Seattle University reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

Seattle University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law

enforcement to delay the investigation temporarily, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. Seattle University will promptly resume its Resolution Process as soon as feasible. During such a delay, Seattle University will implement and maintain supportive measures for the Parties as deemed appropriate. Seattle University will additionally provide for reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the parties that includes the reason for the delay.

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

3. Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator, and Decision-maker, may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator, Decision-maker, and Appeals Decision-maker for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another trained individual will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, such concerns should be raised with the Vice President for Diversity and Inclusion.

The Resolution Process involves an objective evaluation of all available Relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

4. Investigator Appointment

Once an investigation is initiated, the Title IX Coordinator appoints an Investigator to conduct it. These Investigators may be any properly trained Investigator, whether internal or external to Seattle University's community.

5. Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate in Seattle University's investigation and Resolution Process. Student witnesses and witnesses from outside the Seattle University community cannot be required to participate but

are encouraged to cooperate with Seattle University investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online videoconferencing platforms, or, in limited circumstances, by telephone. Seattle University will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator, though not preferred.

6. Interview Recording

In some instances, Investigators may record interviews pertaining to the Resolution Process (other than Informal Resolution meetings). If so, the Parties may review copies of their own interviews, upon request. Witnesses may additionally be permitted to review recordings of their own interviews. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If an Investigator elects to audio and/or video record interviews, all involved individuals should be made aware of audio and/or video recording.

7. Evidentiary Considerations

The Investigator and the Decision-maker will only consider evidence that is deemed Relevant and not otherwise impermissible. Relevant evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence includes evidence that is not Relevant, such as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate Sanction upon a determination of responsibility. Barring an allegation of a pattern of misconduct, this information is only considered at the Sanction stage of the process and may not be shared or considered until then.

8. Investigation

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviews with all Relevant Parties and witnesses, obtaining Relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses permitted to review and verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for

verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

Seattle University may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

9. Live Hearings

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title IX Coordinator's discretion.
  - The Parties may make a request to the Title IX Coordinator that the hearing occur in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
  - All hearings will be recorded, and Parties may request a copy of the recording from the Title IX Coordinator following the live hearing.
  - No unauthorized recordings are permitted.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker; hearing facilitator; Investigator; the Parties and their Advisors; anyone providing authorized accommodations, interpretation, and/or assistive services; University Counsel; and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.
- **Personal Devices.** Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a matter consistent with Policy.
- **Questioning.** All questions during the hearing will be asked by the Decision-maker. Parties and Advisors may suggest questions to be posed by the Decision-maker during the pre-hearing meetings or by submission of written questions during the hearing. The method of submitting questions to the Decision-maker will be specified by the Decision-maker during the pre-hearing meetings.
  - **Impact/Mitigation Statements.** Each party may submit an impact and/or mitigation statement to the Title IX Coordinator that the Decision-maker will review during any Sanction determination, if applicable. The Title IX Coordinator will only provide the impact statements to the Decision-maker

if the Decision-maker determines that the Policy has been violated. If the Title IX Coordinator shares the impact statements with the Decision-maker, they will also be shared with the Parties.

- **Disability Accommodations and Other Assistance**. Parties should contact the Title IX Coordinator at least five (5) business days prior to the hearing to arrange for any reasonable disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Decision-maker Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against Complainants or Respondents generally or the individual Complainant or Respondent in particular. The Decision-maker must recuse themself if such bias or conflict of interest exists.
  - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Title IX Coordinator about possible recusal or removal.
  - Additionally, the Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator within two (2) business days of receiving the hearing notice. Challenges must include a rationale.
  - The Title IX Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict or the potential for bias or conflict are not sufficient cause for removal.
  - If a Decision-maker recuses themself as the result of a conflict of interest or bias, or is removed, the Title IX Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decision-maker and Parties.**
  - The Decision-maker will be provided electronic copies of the Final Investigation Report and all Relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least seven (7) business days in advance of the hearing.
  - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.[7]

[7] Hard-copy materials may be provided upon request to the Title IX Coordinator. The Final Investigation Report and Relevant evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

10. Hearing Notice

The Title IX Coordinator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once sent, notice will be presumptively delivered. The hearing notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential Sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- A description of any technology that will be used to facilitate the hearing.
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance.

11. Witness Participation

Student witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing. Witnesses may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an Advisor or other support person without express permission of the Title IX Coordinator. At the discretion of the Decision-maker, a witness may join by phone if no other reasonable alternative is available.

If any Party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator, unless:

- All Parties and the Decision-maker assent to the witness's participation in the hearing without a prior interview by the Investigator; and
- The Decision-maker deems the evidence presented by the new witness to be Relevant, not impermissible, and not information already established in the record; and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed Relevant, not impermissible, and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing;
- Provide the Parties at least five (5) business days to review the Relevant portions of the new witness's statements, if such statements are submitted;
- Remand the Complaint back to the Investigator for further investigation or verification; or
- Allow the Parties to review and comment on the testimony of the new witness.

If the evidence is deemed not Relevant or impermissible, the Decision-maker may proceed with the hearing absent the new witness's participation.

12. Hearing Procedures

a. Evidentiary Considerations

The Parties must provide all evidence they wish to be considered by the Decision-maker to the Investigator prior to the Investigator completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed Relevant and not impermissible, it will be admitted. If the evidence is deemed not Relevant or impermissible, the Decision-maker may proceed with the hearing absent the new evidence.

The new Relevant evidence will be admitted if:

- All Parties and the Decision-maker assent to the new evidence being considered by the Decision-maker without remanding the Complaint back to the Investigator; and
- The evidence is not duplicative of evidence already in the record; and
- It is not impermissible; and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially Relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing;

- Provide the Parties with at least five (5) business days to review the Relevant evidence;
- Remand the Complaint back to the Investigator for further investigation or analysis; or
- Allow the Parties to review and comment on the new evidence.

If the evidence is deemed not Relevant or impermissible, the Decision-maker may proceed with the hearing without allowing the new evidence.

13. Collateral Misconduct

The Decision-maker has the authority to hear and make determinations on all allegations of Sex-Based Discrimination, Harassment, Retaliation, and Other Prohibited Behavior under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred contemporaneously with the Sex-Based Discrimination, Harassment, Retaliation, or Other Prohibited Behavior, even though those collateral allegations may not specifically fall within one of the defined violations of the Policy.

14. Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

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

15. Investigator Presentation of Final Investigation Report

The Investigator may present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

16. Testimony and Questioning

The Parties and witnesses may provide Relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then by the Parties through the Decision-maker. Questions that the Parties wish to have posed can be questions for that Party themself, another Party, or witnesses.

The Decision-maker will explain any decision to exclude a question as not Relevant, or to reframe it for relevance or clarity. The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-maker has final say on all questions and determinations of relevance and appropriateness. The Decision-maker may consult with legal counsel on any questions of admissibility.

The Decision-maker will then pose the questions deemed Relevant, not impermissible, and appropriate to the party and/or witness.

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

The Decision-maker will allow witnesses who have Relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Decision-maker and the Parties, and the witnesses will then be excused.

17. Refusal to Submit to Questioning and Inferences

Any Party or Student witness may choose to not offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker can only rely on the available Relevant and not impermissible evidence in making the ultimate determination of responsibility. The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

18. Hearing Recordings

Seattle University records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate Seattle University officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

19. Deliberation and Determination

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of proof. Deliberations are not recorded.

When there is a Finding of responsibility for one or more of the allegations, the Decision-maker may then consider any previously submitted impact and/or mitigation statement(s) provided by the Parties in determining appropriate Sanction(s). The Title IX Coordinator will ensure that any submitted statements are exchanged between the Parties if they are viewed by the Decision-maker. Impact or mitigation statements do not influence the Finding; they only potentially influence the Sanctions.

The Decision-maker will then prepare and provide the Title IX Coordinator with a written outcome letter detailing all Findings and Final Determinations, the rationale(s) explaining the decision(s), the Relevant and not impermissible evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any Sanction(s) and rationales explaining the Sanction(s).

This statement will typically be submitted to the Title IX Coordinator within ten (10) business days from the conclusion of the hearing, unless the Title IX Coordinator grants an extension. The Title IX Coordinator will notify the Parties of any extension.

20. Sanctions

For the purposes of Sanctioning, the Decision-maker will consult with the Provost (for Student and Faculty Respondents) or the unit leader and Human Resources (for staff Respondents) to assure that the appropriate Sanction is imposed. Factors considered by the Decision-maker when determining Sanctions and responsive actions may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s);
- The Respondent's disciplinary history;
- The need for Sanctions/responsive actions to bring an end to the Sex-Based Discrimination, Harassment, and/or Retaliation;
- The need for Sanctions/responsive actions to prevent the future recurrence of Sex-Based Discrimination, Harassment, and/or Retaliation;
- The need to remedy the effects of the Sex-Based Discrimination, Harassment, and/or Retaliation on the Complainant and the community;
- The impact on the Parties; and
- Any other information deemed Relevant by the Decision-maker.

The Sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

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

a. Student and/or Student Club or Organization Sanctions

The following are common Sanctions that may be imposed upon Students singly or in combination. Student and Recognized Student Club or Organization Sanctions are outlined in Section 3.4 of the Code of Student Conduct, and include:

- Disciplinary Warning
- Disciplinary Probation
- Interim Suspension
- Deferred Suspension
- Suspension
- Dismissal
- Residence Hall Suspension or Dismissal
- Limitation or Loss of Privileges
- Parent/Guardian Notification
- Educational and/or Developmental Sanctions
- Withholding Honors and/or Degrees
- Revocation of Admission and/or Degrees
- Restitution, Fines, and/or Fees

b. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an Employee who has engaged in Sex-Based Discrimination, Harassment, and/or Retaliation include:

- Verbal or Written Warning
- Performance Improvement Plan
- Enhanced Supervision, Observation, or Review
- Required Training or Education
- Denial of Pay Increase
- Loss of Oversight or Supervisory Responsibility

- Demotion
- Transfer
- Schedule adjustments
- Reassignment
- Delay of (or referral for delay of) Tenure Track Progress
- Assignment to New Supervisor
- Restriction of Stipends, Research, and/or Professional Development Resources
- Suspension/Administrative Leave with Pay
- Suspension/Administrative Leave without Pay
- Termination

21. Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the Title IX Coordinator will provide the Parties with a written outcome notification. The outcome notification will specify the Finding for each alleged Policy violation, any applicable Sanctions that the Seattle University is permitted to share pursuant to state or federal law, and a detailed rationale, written by the Decision-maker, supporting the Findings to the extent Seattle University is permitted by state or federal law to share them.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither Party appeals.

The Title IX Coordinator will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official Seattle University records, or emailed to the Parties Seattle University-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

22. Withdrawal or Resignation Before Complaint Resolution

a. Students

Should a Student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a Student Respondent withdraws from Seattle University, the Resolution Process may continue, or Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, Seattle University will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged Sex-Based Discrimination, Harassment, and/or Retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, Seattle University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Sex-Based Discrimination, Harassment, and/or Retaliation.

When a Student withdraws or leaves while the process is pending, the Student may not return to Seattle University in any capacity until the Complaint is resolved and any Sanctions imposed are satisfied. If the Student indicates they will not return, the Title IX Coordinator has discretion to dismiss the Complaint. The Registrar and Office of Admissions will be notified, accordingly.

If the Student Respondent takes a leave for a specified period of time (*e.g.*, one quarter or semester), the Resolution Process may continue remotely. If found in violation, that Student is not permitted to return to Seattle University unless and until all Sanctions, if any, have been satisfied.

b. Employees

Should an Employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an Employee Respondent resigns or otherwise departs from Seattle University with unresolved allegations pending, the Resolution Process may continue, or Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, Seattle University may still provide reasonable Supportive or remedial Measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged Sex-Based Discrimination, Harassment, and/or Retaliation.

When an Employee resigns and the Complaint is dismissed, the Employee may not return to Seattle University in any capacity. Human resources, the Registrar, and Admissions will be notified, accordingly, and a note will be placed in the Employee's file that they resigned with allegations pending and are not eligible for academic Admission or rehire with Seattle University. The records retained by the Title IX Coordinator will reflect that status.

23. Appeal of the Determination

The Title IX Coordinator will designate a single trained internal or external Appeal Decision-maker to hear the appeal. No Appeal Decision-maker will have been previously involved in the Resolution Process for the Complaint, including in any Supportive Measure or dismissal appeal that may have been heard earlier in the process.

a. Appeal Grounds

Appeals are limited to the following grounds:

1) A procedural irregularity affected the outcome of the matter.
2) New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.

3) The Title IX Coordinator, Investigator, or Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

4) The Sanctions are disproportionate to the outcome, considering the cumulative conduct/disciplinary record of the Respondent.

b. Appeals

Any Party may submit a written request for appeal to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

The appeal will be forwarded to the appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the appeal does not provide information that meets the grounds in this Policy, the request will be denied by the appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the grounds in the appeal meet the grounds in this Policy, then the appeal Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator and/or the Decision-maker will be provided a copy of the appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing Party (if any) may also choose to appeal at this time. If so, that Appeal will be reviewed by the Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the Party who initially requested an appeal, the Title IX Coordinator, and the Investigator and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties will be notified accordingly, in writing.

No Party may submit any new Appeals after this time period. The Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the appeal Decision-maker, who will promptly render a decision.

c. Appeal Determination Process

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The appeals Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the Finding only when there is clear error and to the Sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard.

An appeal is not an opportunity for the appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or Sanction(s).

The appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultation.

d. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator and/or Decision-maker or the Title IX Coordinator (as in cases of bias), the appeal Decision-maker may order a new investigation and/or a new determination with new trained individuals serving in the Investigator and/or Decision-maker roles.

A notice of appeal Outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome will specify the Finding on each ground for appeal, any specific instructions for remand or reconsideration, any Sanction(s) that may result which Seattle University is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent Seattle University is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official institutional records, or emailed to the Parties' Seattle University-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the appeal outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or Sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the Finding or Sanction, that decision is final. When an appeal results in a new Finding or Sanction, that Finding or Sanction

can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the four available appeal grounds.

e. Sanction Status During the Appeal

Any Sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and Supportive Measures may be maintained or reinstated until the appeal determination is made.

If any of the Sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a "show cause" meeting on the justification for doing so must be permitted within two (2) business days of implementation.

24. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any Sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term Remedies or actions with respect to the Parties and/or the Seattle University community that are intended to stop the Sex-Based Discrimination, Harassment, and/or Retaliation, remedy the effects, and prevent recurrence.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for Employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term Supportive Measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator will address any Remedies Seattle University owes the Respondent to ensure no effective denial of educational access.

Seattle University will maintain the confidentiality of any long-term Remedies/actions/measures, provided confidentiality does not impair Seattle University's ability to provide these services.

25. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned Sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker or the Informal Resolution agreement.

Failure to abide by the Sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional Sanction(s)/action(s), including suspension, dismissal, and/or termination from Seattle University. Supervisors are expected to enforce the completion of Sanctions/responsive actions for their Employees.

A suspension imposed for non-compliance with Sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

26. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, Seattle University will maintain records of:

a. Each Sex-Based Discrimination, Harassment, and Retaliation Resolution Process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation

b. Any disciplinary Sanctions imposed on the Respondent

c. Any Supportive Measures provided to the Parties and any Remedies provided to the Complainant or the community designed to restore or preserve equal access to the Seattle University's education program or activity

d. Any appeal and the result therefrom

e. Any Informal Resolution and the result therefrom

f. All materials used to provide training to the Title IX Coordinator, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitator, and any person who is responsible for implementing Seattle University's Resolution Process, or who has the authority to modify or terminate Supportive Measures. Seattle University will make these training materials available for review upon request.

g. All materials used to train all Employees consistent with the requirements in the Title IX Regulations.

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

IV. ACCOMMODATIONS AND SUPPORT DURING THE RESOLUTION PROCESS

A. Disability Accommodations

Seattle University is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to the Seattle University's Resolution Process.

Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with disability support colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

B. Other Support

Seattle University will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process.

V. REVISION OF THESE PROCEDURES

These procedures succeed any previous procedures addressing Sex-Based Discrimination, Harassment, and/or Retaliation for incidents reported after November 14, 2024. The Title IX Coordinator will regularly review and update these procedures. Seattle University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

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

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

These procedures are effective November 12, 2024.

VI. TITLE IX PARTNERS

The Resolution Process relies on a pool of Title IX Partners to carry out the process. Title IX Partners may be Employees of Seattle University or may be externally sourced.

A. Title IX Partner Roles

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

- Appropriate intake of an initial guidance pertaining to Complainants
- Advisor to the Parties
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Hearing Facilitator
- Decision-maker for challenges to emergency removal and Supportive Measures
- Decision-maker
- Appeal of Dismissal Decision-Maker
- Appeal Decision-maker

B. Title IX Partner Appointment

The Title IX Coordinator, in consultation with senior administrators as necessary, appoints the Title IX Partners, which act with independence and impartiality. Although Title IX Partners are typically trained in a variety of skills sets and can rotate amongst the different roles listed above in different Complaints, Seattle University can also designate permanent roles for individual Title IX Partners.

C. Training

Title IX Partners receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope Seattle University's Policy Prohibiting Sexual Harassment, Discrimination, and Retaliation
- Seattle University's Resolution Process
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias
- Treating Parties equitably
- Disparate Treatment
- Disparate Impact
- Reporting, confidentiality, and Privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific Remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes

- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render Findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct
- How to conduct an investigation and grievance process, including administrative resolutions, hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of Sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance and creating an investigation report that fairly summarizes Relevant and not impermissible evidence
- How to determine appropriate Sanctions in reference to all forms of Sex-Based Discrimination, Harassment, and/or Retaliation allegations
- Recordkeeping

D. Additional Training Elements Specific to Title IX

All investigators, Decision-makers, and other persons who are responsible for implementing Seattle University's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- How to conduct a Sex discrimination resolution process consistent with the Resolution Process for the Policy Prohibiting Sexual Harassment, Discrimination, and Retaliation, including issues of Disparate Treatment, Disparate Impact, Sexual Harassment, Quid Pro Quo, Hostile Environment Harassment, and Retaliation
- The meaning and application of the term "Relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for Informal Resolution facilitators on the rules and practices associated with Seattle University's Informal Resolution process
- The role of the Title IX Coordinator

- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX
- Seattle University's obligations under Title IX
- How to apply definitions used by Seattle University with respect to Consent (or the absence or negation of Consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX