Policy Title: Sexual Harassment Policy
Policy Summary: Ensure that the campus community is aware of the University's prohibition on sexual harassment and set forth procedures for reporting and complaint resolution consistent with Title IX, the Clery Act, and other applicable law.
Policy Category: Administration & Operations
Policy Owner: Administration & Operations

Policy Summary

Identifying prohibited behavior and establishing a fair, prompt, impartial, and equitable University response to instances of sexual harassment.

Purpose

To set forth Drake University's policies and procedures related to sexual harassment, which includes "quid pro quo" sexual harassment, hostile environment sexual harassment, sexual assault, dating violence, domestic violence, and stalking, and provide contact information for resources and University employees responsible for administering the Policy. In addition, this Policy is intended to ensure that the University's policies and procedures related to sexual harassment are interpreted and applied consistently with Title IX, the Clery Act, Title VII, Iowa law, and any other applicable law or regulation.

Scope

In accordance with applicable law, this Policy prohibits sex discrimination, including sexual harassment as defined below, in its programs and activities. This Policy applies to all persons participating in the programs or activities of Drake University, including students and employees. This Policy applies regardless of the gender, sexual orientation, or gender identity or expression of the individuals involved.

Any person may report or file a complaint alleging sexual harassment against a student or employee. However, with respect to any complaint that is 1) by a person who is not a member of the University community, and/or 2) relating to conduct occurring outside the University's program or activity, the University reserves the right to determine, in its sole discretion, whether the conduct described in the complaint bears a sufficient nexus to a Drake educational program or employment relationship or constitutes a sufficient risk to the University community to proceed under this or another conduct Policy.

"Students" include admitted students as well as students who may not be on campus but are nonetheless considered an active or enrolled student at the University. "Employees" include full-time and part-time faculty and staff employed on campus or through a University program, activity, or event, as well as adjunct professors, distinguished lecturers, or visiting scholars, faculty, and instructors teaching or interacting with University students and personnel.

The scope of Title IX: The University's jurisdiction under Title IX is limited to locations, events, or circumstances over which it substantially controls both the Respondent accused of behavior violating this Policy and the context in which the alleged harassment occurs, as well as any building owned or controlled by a student organization that is officially recognized by the University, such as a fraternity or sorority. The University's jurisdiction under Title IX is also limited to conduct against a person that occurs in the United States.

If a report or complaint falls under the University's jurisdiction under Title IX, the University will utilize the Formal Title IX Resolution Process to respond to claims of sexual harassment and will not proceed under any other College policy or procedure if doing so would interfere with any right or privilege provided to a party under Title IX. If the University determines that a report or complaint does not fall under the University's jurisdiction under Title IX, the University may still take action for such alleged conduct, consistent with applicable law and policy and based on the nature of the alleged conduct. The parties will be notified of this decision.

Definitions

1. Sexual Harassment: For purposes of implementing the federal regulations governing the University's response to misconduct under Title IX, sexual harassment is defined as:

a) Unwelcome behavior of a sexual nature or that is directed at someone based on their sex when:

- **Submission to, or rejection of, such conduct is made explicitly or implicitly a term or condition of an aid, benefit, or service of the individual's education, employment or status in a course, program or activity; and/or**

Such conduct is sufficiently severe, pervasive, and objectively offensive (intimidating, hostile, and/or abusive) that it effectively denies an individual's access to work or education program or activity.

b) Sexual assault, defined as any sexual act directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent including:

- **Rape: the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person without consent of the Complainant.**
- **Fondling: the touching of the private body parts of another person for the purpose of sexual gratification without consent of the Complainant including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.**
- **Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or**

- **Statutory rape: sexual intercourse with a person who is under the statutory age of consent.**

c) **Dating violence, which is violence committed by a person who is or has been in a social relationship of a romantic, sexual, or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or threat of such abuse and does not include acts covered under the definition of domestic violence.**

d) **Domestic violence, which is a felony or misdemeanor crime of violence committed by a:**
   - **Current or former spouse or intimate partner of the Complainant;**
   - **Person with whom the Complainant shares a child in common;**
   - **Person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;**
   - **Person similarly situated to a spouse of the Complainant under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred; and**
   - **Any other person against an adult or youth Complainant who is protected from that person's act under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred.**

e) **Stalking, which is engaging in a course of conduct directed toward a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. For purposes of this definition:**
   - **Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.**
   - **Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.**
   - **Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.**

For purposes of reports and formal complaints of sexual harassment which fail to satisfy the jurisdictional requirements established by federal regulations governing the University's response to sexual harassment under Title IX sexual harassment will, in addition to the above, be defined as including the following additional form of sexual harassment under the Title VII, the Iowa Civil Rights Act, and other applicable law:

Unwelcome behavior of a sexual nature or that is directed at someone because of their sex when such conduct is sufficiently severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with or limiting an individual's work or education so as to create an intimidating, hostile, or offensive environment for work or learning or participating in a University program or activity.

Discussion: The University has modified its definition of sexual harassment in accordance with the U.S. Department of Education's use of "sexual harassment" as an umbrella term that refers to various forms of sexual and interpersonal misconduct including sexual assault, dating violence, domestic violence and stalking as well as various forms of what has traditionally been referred to as sexual harassment including "quid pro quo" sexual harassment and hostile work and/or education environment sexual harassment.

2. Federal Regulations Governing the University's Response to Sexual Harassment Under Title IX: Regulatory provisions and supplemental guidance published by the U.S. Department of Education at 34 CFR 106 and providing for non-discrimination on the basis of sex in education programs or activities receiving federal financial assistance including, but not limited to, the following U.S. Department of Education regulatory provisions:

- **Grievance process for formal complaints of sexual harassment under 34 CFR 106.45**
- **Adoption of grievance procedures, dissemination of Title IX policy and designation of Title IX Coordinator under 34 CFR 106.8**
- **Definitions and Title IX jurisdiction/scope requirements under 34 CFR 106.30;**
- **Institutional Title IX sexual harassment response requirements under 34 CFR 106.44**
- **Prohibition against retaliation under 34 CFR 106.71**

3. Coercion: Verbal and/or physical conduct, including manipulation, intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to compel someone to engage in sexual activity.

4. Consent: The term "consent," in the context of sexual activity, means informed, freely and actively given, unambiguous words or actions that demonstrate a willingness to participate in mutually agreed-upon sexual activity.

Discussion: When looking at whether consent is present, it is important to understand that persons who seek to engage in the sexual activity are responsible for obtaining consent – it should be never be assumed. For instance, a current/prior relationship or current/previous sexual activity alone is not sufficient to demonstrate consent, nor does consent to engage in sexual activity with one person imply consent to engage in sexual activity with another person. Similarly, lack of protest or resistance does not constitute consent, nor does silence mean consent has been given.

To constitute consensual sexual activity, consent must be present throughout the sexual activity – at any time, a participant may communicate (verbally or physically) that they no longer consent to continuing the activity. If there is confusion as to whether anyone has consented or continues to consent to sexual activity, it is essential that the participants stop the activity until the confusion can be clearly resolved. The assessment is based on objectively and reasonably apparent indications of consent available to the person seeking to engage in sexual activity, when viewed from the perspective of a reasonable person under the circumstances.

Consent is not present if a sexual act is committed through coercion or force. Furthermore, an individual is unable to give consent if they are incapacitated or a minor under age 16.

5. Force: The use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual activity.

6. Incapacitation: Incapacitation is the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring, including due to the influence of drugs, alcohol, medication, or mental or physical disability. An individual who is incapacitated lacks the ability to make informed judgments and cannot consent to sexual contact or activity.

Discussion: Where alcohol or other drugs are involved, incapacitation is a state beyond impairment or intoxication wherein the individual is unaware of their actions or surroundings. Where alcohol or other drugs are involved, evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation available to the person seeking to engage in sexual activity, when viewed from the perspective of a reasonable person under the circumstances.

7. Retaliation: A materially adverse action taken against a person because of theperson's report of sexual harassment, participation in the investigation of a report of sexual harassment, or objecting to or resisting such harassment.

Discussion and Examples:

The following actions could constitute retaliation if they are taken against an individual because they have resisted or reported sexual harassment, sought guidance, filed a complaint or participated in an investigation into sexual harassment:

- Retaliation can include any action that has an adverse impact on the individual's employment, compensation or work assignments, or, in the case of students, grades, class selection or any other matter pertaining to the student's participation at the University.

- Retaliation might also include, but is not limited to, harassment, intimidation, coercion, discrimination, or other misconduct directed at an individual because they have resisted or reported sexual or interpersonal misconduct, sought guidance, filed a complaint or participated in an investigation into sexual or interpersonal misconduct.

Retaliation is a separate form of misconduct that must be investigated and could justify additional supportive measures and/or sanctions against any person involved in the retaliatory acts, including third-parties, friends, or other persons acting on behalf of or in cooperation with the Complainant or Respondent.

Policy

Drake University is committed to providing a learning and working environment where its students and employees are valued as individuals, can feel safe, and are treated respectfully. Certain conduct is inconsistent with these standards and values, violates University policy, and, in some instances, state and federal law.

Accordingly, consistent with the University's Non-Discrimination Statement, the University prohibits discrimination on the basis of sex in its educational programs and activities, and in employment. This includes, but is not limited to, discrimination in the form of sexual harassment, which includes sexual assault, dating violence, domestic violence, and stalking (collectively referred to as "Sexual Harassment"). Retaliation against anyone for resisting or reporting sexual harassment, seeking guidance, filing a complaint, or participating in an investigation into sexual harassment is strictly prohibited. Assisting another person in the commission of sexual harassment is also prohibited.

The University recognizes, and is committed to, its obligation to provide a prompt, fair, and equitable response when it learns of sexual harassment involving a student, employee, or program or activity under the scope of this Policy. Individuals who alone, or with others, are found to have participated or attempted to participate in sexual harassment will be subject to disciplinary action by the University, up to and including separation from the University, notwithstanding whether any other action is taken through civil or criminal processes.

The University is committed to the principles of free inquiry and expression and, therefore, this Policy will respect the University's defined principles of academic freedom or freedom of thought and expression. These principles recognize the importance of free and open exchange of ideas in discussion or work in the classroom, in research, or intellectual discourse when the speech in question is germane to the subject matter or is recognized as having a pedagogical purpose.

Title IX Coordinator and Deputy Title IX Coordinators

The Title IX Coordinator oversees the University's centralized review, response, and resolution procedures for reports of sexual harassment. Any individual (e.g., Complainant, Respondent,

witness, or third party) may contact the Title IX Coordinator to report concerns of sexual harassment or to ask questions about the University's policies and procedures relating to sexual harassment. The Title IX Coordinator can also provide information related to campus and community resources and describe the options available to address concerns related to sexual harassment. The Title IX Coordinator can be contacted in a variety of ways:

Title IX Coordinator

In Person:	316 Old Main
Email:	titleix@drake.edu
Phone:	515-271-4956
Online:	www.drake.edu/titleix

The duties of the Title IX Coordinator also include training, education, climate review, and oversight of procedures that are designed to promptly and equitably eliminate sexual harassment, prevent its recurrence, and address any effects on persons or on the University campus. To accomplish these duties, the University also has additional employees whose roles on campus can provide information and support to individuals, including the Deputy Title IX Coordinator for Athletics, Deputy Title IX Coordinator for Campus Climate, and Deputy Title IX Coordinator for Prevention. Contact information for these employees can be found on the Title IX webpage at www.drake.edu/titleix.

I. Resources and Reporting

A. Resources, Support, and Information

The University offers resources, support, and information for any student or employee who has questions or concerns regarding sexual harassment. This information can be found in this Policy or on the University's Title IX webpage at www.drake.edu/titleix, and can also be requested from the Title IX Coordinator, the Dean of Students, Human Resources, or other identified University employees or offices. In addition, the University also provides required notifications to the campus community or to those involved in complaints of sexual harassment. Individuals with questions or concerns, or those needing support and assistance, can contact any of the resources listed in this Policy or the University's Title IX webpage.

B. Reporting Sexual Harassment

Any non-confidential, non-student employee must immediately report any known or suspected instances of sexual harassment to the Title IX Coordinator or as otherwise set out in this Policy. These employees include any University employee not protected by legal confidentiality. All questions regarding the circumstances under which employees are required to report instances of sexual harassment should be addressed to the Title IX Coordinator.

At Drake University, student employees typically do not carry with them the authority to address misconduct of other students and, as a result, are not required to report. Reporting by these student employees is, therefore, optional. Exceptions to this rule include student employees who, as part of their duties, are given authority to take corrective action for misconduct, such as those serving in the following roles: Resident Advisors (RA's), Assistant Resident Hall Coordinators (ARHC's), Orientation Leaders (during orientation sessions) or students with managerial responsibility over other student-employees – these student employees are required to notify the University about instances of sexual harassment.

Otherwise, Drake strongly encourages all students, employees, or anyone with knowledge to report incidents of sexual harassment. Options to disclose or report sexual harassment are set out in this Policy and can also be found on the University's Title IX webpage. There are several different options to report sexual harassment or seek assistance within or outside the University.

1. Understanding Confidentiality

To fully understand the following reporting options, it is important to understand confidentiality and the role it plays when reporting sexual harassment. Drake University is committed to creating an environment that encourages individuals to come forward if they have experienced or witnessed any form of sexual harassment, and protects those accused during a fair and impartial resolution process.

Except as required to carry out the purposes of this Policy (including the conducting of any investigation, hearing, or judicial proceeding), applicable law, or as permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, the University will keep confidential the identity of any individual who has made a report or complaint of sexual harassment, or has been identified as the Respondent to any such report or complaint, or is a witness to any complaint or investigation. Students may also request that their directory information on file with the University be removed from public sources by contacting the Student Records Office at (515) 271-2025. Information about a report of sexual harassment and the parties' identities is disclosed only to select school officials who have an essential need to know in order to carry out their job responsibilities, including the provision of reasonable supportive measures to any party. As is the case with any educational institution, the University must balance the needs of the individual with its obligation to protect the safety and well-being of the community at large.

Under Iowa law, communications with some individuals are legally confidential or privileged. This means that absent specific exceptions, these individuals cannot be forced to divulge or share any information about the identity of the individual or the specific facts of the situation. Because individuals have different obligations with regard to confidentiality depending on their positions or affiliations, one should always confirm whether legal confidentiality applies to the communication. Any other University employee not included in

the list of Confidential Reporting Options below is not a confidential resource and is expected to share known or suspected sexual harassment with the Title IX Coordinator.

Federal Crimes Statistics Reporting and Timely Warning Notifications

Certain campus officials, known as Campus Security Authorities (or CSAs), also have a duty to report sexual assault, domestic violence, dating violence, and stalking (among other crimes) to Drake Public Safety for federal statistical reporting purposes in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").

All personally identifiable information reported to Drake Public Safety for purposes of satisfying the requirements of the Clery Act is kept confidential, but statistical information regarding the type of incident and its general location (e.g., on or off-campus, but no addresses are given or reported) will be collected for publication in the University's Annual Security and Fire Safety Report. This report helps to provide the community with a clear picture of the extent and nature of campus crimes to ensure greater community safety. The University does not publish names in its Daily Crime Log or online, and keeps personally identifiable information regarding crimes reported under the Clery Act out of public recordkeeping, including its Annual Security Report of Crime Statistics required under the Clery Act.

Finally, under the Clery Act University officials must issue timely warning notifications for incidents reported to them when they pose a serious or ongoing threat to students and employees in a prescribed geographic area. The University will not identify the individuals involved unless providing the identity of the Respondent is necessary for safety reasons, but will provide enough information to inform the public of any ongoing or unresolved risk.

2. Confidential Reporting Options

Confidential Resources Under Iowa Law

The following are considered confidential resources under Iowa law and for purposes of this policy:

- Health care provider (including medical professionals at Drake University's Student Health Center)
- Personal attorney
- Psychological counselor (including counselors at Drake University's Student Counseling Center)
- Religious/spiritual counselor (including Drake University's Spiritual Counselor)
- Victim Advocate (including through Violence Intervention Partners, Polk County Crisis and Advocacy Services, or similar crime victim center recognized under Iowa Code §915.20A)

Campus and Community Confidential Resources

The following are campus and community resources that are confidential and available to students or employees; additional resources may be available on the Title IX webpage at www.drake.edu/titleix.

CAMPUS RESOURCES AND SUPPORT – CONFIDENTIAL

Student Counseling Center 3116 Carpenter Ave. 515-271-3864	**Student Health Center** 3116 Carpenter Ave. 515-271-3731	**University Spiritual Counselor** Ted Lyddon-Hatten Wesley House 2718 University Ave. 515-274-3133 (office) 515-710-8151 (cell)
Victim Advocate Cowles Library 209 (fall and spring terms) Wednesdays 3:00-4:30	**Violence Intervention Partner:** 24/7 Peer-based Victim Support Wesley House, 2718 University Ave. 515-512-2972 (Call or Text)	

COMMUNITY RESOURCES AND SUPPORT – CONFIDENTIAL

Employee Assistance Program (EAP) 1-800-327-4692	**Broadlawns Medical Center** 1801 Hickman 515-282-2200 SANE nurse available	**Iowa Lutheran Hospital** 700 E. University Ave. 515-263-5612 SANE nurse available
Iowa Methodist Hospital 1200 Pleasant St. 515-241-6212 SANE nurse available	**Mercy Medical Center** 1111 Sixth Ave. 515-247-3121 SANE nurse available	**Planned Parenthood Rosenfield Health Center** 1000 E. Army Post Rd. 1-877-811-7526 SANE nurse available
Polk County Crisis Services 2309 Euclid Ave. 515-286-3600 Available 24/7	**Iowa Sexual Abuse Hotline** 1-800-284-7821 Available 24/7	**National Sexual Assault Hotline** 1-800-656-HOPE Available 24/7
Iowa Domestic Violence Hotline 1-800-942-0333 Available 24/7	**Domestic Violence Services** Crisis Line: 515-243-6147 Business Line: 515-471-8699 Available 24/7	**Iowa Concern Hotline** (Stress Relief) 1-800-447-1985 Available 24/7

LUNA–Latina Sexual & Domestic Violence Service 4313 Fleur Drive Crisis Line: 1-866-256-7668 Business Line: 515-271-5060 Available 24/7	**Monsoon-United Asian Women of Iowa Sexual & Domestic Violence Service** 4952 Franklin Ave. 515-288-0881 Available 24/7	**Nisaa African Family Services** 4952 Franklin Ave. 515-288-0881 Available 24/7
Iowa Legal Aid 1111 9th St., # 230 Des Moines 1-800-532-1275 Legal services	**Iowa Coalition Against Domestic Violence** 6200 Aurora Ave. #405E Urbandale 515-244-8028 Legal services	**Iowa Coalition Against Sexual Assault** 3030 Merle Hay Road Des Moines 515-244-7424 Legal services

3. Law Enforcement Reporting Options

The University strongly encourages all members of its community to report any sexual harassment that constitutes a crime to law enforcement. However, it is the individual's choice whether or not to make such a report. Individuals have the right to decline involvement by the police. Reporting to the University does not mean the individual must also file a report with the police nor does the University automatically notify the police unless requested to do so, as required by law, or as needed to preserve campus safety (e.g., physical or sexual abuse or exploitation of a minor).

If an individual desires to contact law enforcement, they may do so directly or with assistance from the University, by contacting any of the following offices and/or individuals:

Des Moines Police	Emergency 911	Non-emergency 515-283-4864 or 515-283-4811	25 East 1st Street Des Moines, IA 50309
Public Safety Director	Scott Law	515-271-2222	scott.law@drake.edu
Title IX Coordinator		515-271-4956	Titleix@drake.edu

Additional information about the Des Moines Police department may be found online at: https://www.dmgov.org/departments/police/Pages/default.aspx. Criminal acts may subject an individual to criminal and civil penalties under federal and/or state law.

4. University Reporting

As noted above, individuals are encouraged to report sexual harassment to the University. When reporting a concern involving sexual harassment to the University, a "Complainant" is an individual reported to have experienced the alleged sexual harassment,

regardless of whether they have personally filed a report of sexual harassment with the University. A "Respondent" is an individual reported to have engaged in sexual harassment. A "reporting party" is a person who notifies the University that sexual harassment, involving either themselves or another individual(s), has occurred.

Reporting a concern involving sexual harassment to the University does not require an individual to file a formal complaint or participate in a complaint resolution or investigation process as described below.

a. University Reporting Options

To report an incident involving sexual harassment, an individual may contact any of the employees and departments listed below:

Title IX Coordinator		515-271-4956	titleix@drake.edu drake.edu/titleix
Deputy Title IX Coordinator for Campus Climate/Associate Provost	Melissa Sturm-Smith	515-271-2835	melissa.sturm-smith@drake.edu
Deputy Title IX Coordinator for Athletics/Associate Athletic Director	Megan Franklin	515-271-2809	megan.franklin@drake.edu
Deputy Title IX Coordinator for Prevention/Violence Prevention Coordinator	Lynne Cornelius	515-271-4141	prevention@drake.edu
Executive Director, Human Resources	Maureen De Armond	309-840-4011	maureen.dearmond@drake.edu
Dean of Students	Jerry Parker	515-271-4088	jerry.parker@drake.edu
Public Safety Director	Scott Law	515-271-2222	scott.law@drake.edu

Reports of sexual harassment made to the Dean of Students, Drake Public Safety, Human Resources, or other non-confidential University employees or offices will be referred to the Title IX Coordinator.

The University respects a person's choice to proceed anonymously and will support an individual through that process; however, reporting anonymously may limit the University's ability to fully investigate or address an incident or to assist the reporting individual through the provision of supportive measures.

Anonymous reports may also be submitted via EthicsPoint at www.drake.edu/ethicspoint. EthicsPoint is a third-party website that connects individuals reporting concerns with University officials authorized to respond to those concern without identifying the reporting individual. Upon receiving a concern, the appropriate University official(s) will post a response to the EthicsPoint site but, because the submitted reports are anonymous and not tied to specific e-mail accounts, the reporting individual will not be notified of the response. However, EthicsPoint will instruct the reporting individual to check back on the site for any responses, questions, or information from the University.

An online report can also be submitted through the Title IX website, which allows the reporting individual the option to submit the report with their contact information or to remain anonymous. However, unlike reports submitted through EthicsPoint, if the reporting individual chooses not to include contact information, the University will have no means of responding or providing information or resources to the person submitting the anonymous report.

b. Time Frame for Reporting

The University encourages individuals to come forward as soon as possible to share concerns of sexual harassment so that a timely and effective review and response can occur. There is no time limit for a reports or complaints under this Policy, although the University's ability to investigate and respond fully may be limited with the passage of time.

However, formal complaints of sexual harassment will only be adjudicated under the University's Formal Title IX Resolution Process when the misconduct reported satisfies the jurisdictional requirements established by federal regulations governing the University's response to sexual harassment under Title IX, and if the misconduct is reported to the institution while the Complainant is participating or attempting to participate in a University education program or activity.

If at the time of the report a Respondent is no longer affiliated with the University *(*e.g., a report is made after a student has left or graduated or an employee no longer works for the University), the University can still provide reasonably available remedial/supportive measures, assist the Complainant in identifying external reporting options, and may take other appropriate action depending on the circumstances presented.

c. Right to an Advisor

Both a Complainant and a Respondent are given the opportunity to have support or advice through the reporting and if applicable, investigative and disciplinary processes. Both the

Complainant or the Respondent may have up to two individuals accompany them at their own expense to any meetings, interviews, or hearings related to the matter – these individuals are often called Advisors, Personal Representatives, or Support Persons (collectively referred to herein as "Advisors") and may be a friend, victim advocate, lawyer, employee, family member, or other person chosen by the Complainant or Respondent. The roles and expectations of a person serving as an Advisor are explained as follows:

- The Advisor will keep private the information shared during meetings and throughout the investigation and adjudication process and will not disclose in any manner information shared or learned in the University process.
- It is up to the Complainant and Respondent to present their information in meetings, interviews, or hearings. Advisors cannot speak for an individual and do not have an active role during any meetings, interviews, or hearings unless permitted by University policy. For instance, an Advisor, even if an attorney, does not provide active representation of an individual the way that an attorney ordinarily would in a formal legal proceeding. Advisor(s) will only be allowed to play an active role in any hearing that allows for the cross-examination of any party or witness where the formal complaint meets the jurisdictional requirements established by federal regulations governing the University's response to sexual harassment under Title IX and requires adjudication under the University's Formal Title IX Resolution Process.
- The University's communication during the process will be primarily with the Complainant and Respondent, not with the Advisor directly. The University will copy an Advisor on communications if requested by the Complainant or Respondent. Similarly, the Complainant or Respondent may request, in writing, that the University no longer copy an Advisor.
- A Complainant or Respondent may use different Advisor(s) at various stages in the process, especially if their chosen Advisor(s) cannot be available for a scheduled meeting, interview, or hearing. The University will work to reasonably accommodate the Advisors' schedules but will not unnecessarily delay the process due to the Advisors' conflicts.
- This process involves the investigation and adjudication of a University concern, not a criminal charge (which may be occurring separately at the same time), and the process will follow University policies and protocols.
- The University may remove an Advisor if they unreasonably delay the process, or their presence is disruptive, obstructive, or otherwise interferes with the University's handling of the matter. In such a case, the University will notify the Complainant or Respondent, who may obtain another Advisor.
- Drake's policy prohibits retaliation against any individuals for filing a complaint or participating in the investigation of the complaint. An Advisor is also protected by and subject to this retaliation prohibition. This means an Advisor may not retaliate against any person participating in this process, nor may anyone retaliate against anAdvisor.
- Any restrictions around the choice of Advisor will not apply to reports or formal complaints of sexual harassment that meet the jurisdictional requirements established by federal regulations governing the University's response to sexual harassmentunder

Title IX and require adjudication under the University's Formal Title IX Resolution Process.

- In cases that meet the jurisdictional requirements established by federal regulations governing the University's response to sexual harassment under Title IX and require adjudication under the University's Formal Title IX Resolution Process, the University will:
    - provide copies of investigation reports and evidence to both the parties and their Advisor(s);
    - provide each party to the formal complaint with the option to request that one of the two allowed Advisors be a University appointed Advisor available to assist that party throughout the duration of the process; and
    - provide any party to the complaint that does not have an Advisor present to assist with cross-examination during any hearing during which the party has the right to engage in cross-examination of other parties to the complaint with a University appointed Advisor for the duration of that hearing.

5. Supportive Measures

University Supportive Measures

The Title IX Coordinator must promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with supportive measures, and work cooperatively with individuals involved in matters of sexual harassment to promote their health, well-being and physical safety, and to make available assistance within the individual's educational and/or work environment. This applies regardless of whether the individuals are involved in a formal complaint process, an informal resolution process, or have otherwise requested the University not take action. For example, University no-contact or trespass orders or changes to academic, living, transportation, and working situations may be requested and will be arranged if reasonably available and appropriate. In addition, if requested, counseling, health services, disability services, financial aid, and assistance in notifying appropriate local law enforcement will also be provided.

Supportive measures will be individualized, provided without fee or charge to the student(s) or employee(s), are non-disciplinary in nature, and will not unreasonably burden the parties. When putting supportive measures in place, the University will consider individually each situation and the circumstances presented. Any supportive measures or accommodations provided by the University will also be kept confidential to the extent reasonably practicable, and to the extent the confidentiality does not impair the University's ability to provide the supportive measures or accommodations. Supportive measures are not disciplinary sanctions themselves, but an individual's failure to comply with the restrictions imposed by supportive measures may be a violation of this Policy and serve as a basis for disciplinary action. The Title IX Coordinator will coordinate the University's response to all requests for by any party for supportive measures.

The University may make a non-disciplinary interim suspension of a student Respondent on an emergency basis and consistent with the Student Conduct Code. Prior to suspending a student, the University will conduct an individualized safety and risk analysis and determine whether there is an immediate threat to the physical health or safety of any individual. Any student so suspended will be provided with notice and an opportunity to challenge this action immediately following the removal.

The University may, in its discretion and consistent with applicable policies, procedures, and/or agreements, place an employee Respondent on administrative leave pending the outcome of a resolution process.

Court Orders of Protection

There are different types of protection orders available through the court system:

> *Criminal no-contact orders* are available as part of a criminal proceeding for domestic abuse, harassment, stalking, sexual abuse, or assault. These orders are requested by the Polk County Attorney's Office, are granted by a judge in the course of criminal proceedings and can be enforced through local law enforcement.
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> There is a separate process for obtaining a *civil protective order*, which are available in cases of domestic abuse or sexual assault even if there are no criminal charges. Civil protective orders are issued through the local courts by completing an application, available in the Polk County Clerk of Court's room. Like a criminal no-contact order, these orders are granted by a judge and can be enforced through local law enforcement.

The University will assist parties in developing plans to reasonably prevent violations of both criminal no-contact orders and civil protective orders. If an individual obtains an order of protection from a court in Iowa, that individual should provide the Title IX Department and/or Drake Public Safety with a copy of the order of protection so that the University is aware of any limitations or restrictions. Parties to an order of protection are encouraged to schedule a meeting with Drake Public Safety to develop a plan to abide by the court order. This plan may include, for example: escorts, special parking arrangements, changing classroom location, allowing a student to complete assignments from home, etc. The University cannot enforce a violation of a court order, but can assist an individual in contacting law enforcement to report a violation. If any terms of a court order are unclear in their application to the campus environment, it is up to the parties to seek clarification through the court – the University cannot render a legal opinion or give advice other than to develop a plan to reasonably prevent violations of the order.

6. Amnesty Regarding Student Discipline for Use of Alcohol or Drugs

Students are strongly encouraged to report incidents of, or share information about, sexual harassment as soon as possible. This is true even if a student may have concerns about their

own alcohol or drug use. Accordingly, consistent with the Code of Student Conduct, the University will not pursue student disciplinary action for improper personal use of alcohol or other drugs against a person who reports or makes a formal complaint in good faith concerning an incident of sexual harassment, or who participates in good faith as a witness or Respondent in an investigation of sexual harassment. The University may, on its own, determine that amnesty applies to a situation based on the facts that are presented by the parties or witnesses. Parties or witnesses may inquire with the Title IX Coordinator or the Dean of Students regarding amnesty.

7. Preserving Information and Evidence

Individuals should attempt to preserve any information or evidence relating to alleged sexual harassment, including physical, written, or electronic information. Preserving evidence may be useful for participating in a criminal or University complaint or for obtaining protection orders.

In addition to preserving any physical evidence such as clothing or bedding, individuals are encouraged to save, for example, text messages, instant messages, social networking pages, and other communications, and to keep pictures, logs, and any other relevant documents. Individuals may also want to write down all the details they can recall about the incident. Additional information on preserving physical evidence can be found on the Title IX webpage at www.drake.edu/titleix.

II. Informal or Formal Complaint Resolution Processes

Reports of sexual harassment to the University may, depending upon the individual circumstances of the individual report or formal complaint, be handled as follows:

- The University provides the Complainant with assistance and support only, based on the Complainant's request that the University not take action, where that request is not clearly unreasonable;
- The University determines that the circumstances of the report or formal complaint satisfy the jurisdictional requirements established by federal regulations governing the University's response to sexual harassment under Title IX and must be resolved under the University's Formal Title IX Resolution Process; or
- The University determines that the circumstances of the report or formal complaint do not satisfy the jurisdictional requirements established by federal regulations governing the University's response to sexual harassment under Title IX and dismisses the complaint, but may engage in informal or formal resolution procedures asapplicable.

Based on the information shared, the University will take steps that are aimed at stopping the behavior and preventing a recurrence. The Title IX Coordinator will oversee all complaint resolution processes and may, depending on the particular circumstances involved in a specific complaint, coordinate with other University departments to provide support and otherwise assist in the resolution of complaints including:

Dean of Students Office

- When the Respondent is a Drake student, or
- When the Complainant is a Drake student and the Respondent is a third party

Human Resources Department

- When the Respondent is a Drake employee, or
- When the Complainant is a Drake employee and the Respondent is a third party

Provost

- When the Respondent is a Drake faculty member, or
- When the Complainant is a Drake faculty member and the Respondent is a third party

Communications throughout a resolution process will generally occur through University e-mail accounts unless other arrangements or accommodations have been made. The Title IX Coordinator will communicate with the Complainant and Respondent to provide updates throughout the process. In addition, at any time a Complainant or Respondent may contact the Title IX Coordinator with questions about the status of their case.

In all cases, the University will conduct a prompt and equitable investigation of allegations of sexual harassment. However, the University may, as appropriate, alter or extend time frames stated in this Policy and procedures for good cause, with written notice to the parties. The time it takes to complete the resolution of a sexual harassment complaint may vary based on the complexity of the investigation and the severity and extent of the alleged conduct, as well as on whether there is a parallel criminal investigation, or if school breaks occur during the process. The University will consider reasonable requests from the parties to extend timelines or deadlines if necessary; however, if an extension is granted it will be granted equally to all parties.

A. Formal Title IX Resolution Process Established by Federal Regulations Governing the University's Response to Sexual Harassment Under Title IX

1. Scope Requirements of the Formal Title IX Resolution Process Established by Federal Regulations Governing the University's Response to Sexual Harassment Under Title IX

The University's Formal Title IX Resolution Process will apply to reports and formal complaints of sexual harassment only where the following jurisdictional/scope requirements, as set out in federal regulations governing the University's response to sexual harassment under Title IX, are present:

a. The conduct alleged within the report or formal complaint constitutes "sexual harassment," defined as:

a) Unwelcome behavior of a sexual nature or that is directed at someone based on their sex when:

- Submission to, or rejection of, such conduct is made explicitly or implicitly a term or condition of an aid, benefit, or service of the individual's education, employment or status in a course, program or activity; and/or

Such conduct is sufficiently severe, pervasive, and objectively offensive (intimidating, hostile, and/or abusive) that it effectively denies an individual's access to work or education program or activity.

b) Sexual assault, defined as any sexual act directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent including:

- Rape: the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person without consent of the Complainant;
- Fondling: the touching of the private body parts of another person for the purpose of sexual gratification without consent of the Complainant including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity;
- Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- Statutory rape: sexual intercourse with a person who is under the statutory age of consent.

3) Dating violence, which is violence committed by a person who is or has been in a social relationship of a romantic, sexual, or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or threat of such abuse and does not include acts covered under the definition of domestic violence.

4) Domestic violence, which is a felony or misdemeanor crime of violence committed by a:

- Current or former spouse or intimate partner of the Complainant;
- Person with whom the Complainant shares a child in common;
- Person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- Person similarly situated to a spouse of the Complainant under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred; and
- Any other person against an adult or youth Complainant who is protected from that person's act under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred.

5) Stalking, which is engaging in a course of conduct directed toward a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. For purposes of this definition:
    - Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.
    - Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
    - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

b. The conduct within the report or formal complaint occurred within the context of a University education program or activity:

An education program or activity includes locations, events and circumstances in which the University exercises substantial control over both the Respondent and the context in which the sexual harassment alleged in the complaint occurred. For purposes of this Policy, this specifically includes any building owned/controlled by an officially recognized student organization of the University (e.g., fraternities and sororities).

At the time of the filing a formal complaint, the Complainant must be participating or attempting to participate in a University education program or activity.

c. The conduct within the report or formal complaint must occur within the United States

Alleged sexual harassment which occurs on University-sponsored or facilitated study abroad trips or programs can still be reported for adjudication under a different University conduct code or policy, but do not fall under the scope/jurisdiction of the Formal Title IX Resolution Process.

2. The University's Formal Title IX Resolution Process Procedural Requirements for Formal Complaints under Established by Federal Regulations Governing the University's Response to Sexual Harassment Under Title IX

These requirements will only apply to sexual harassment complaints that satisfy the scope/jurisdictional requirements of the Formal Title IX Resolution Process, as established by federal regulations governing the University's response to sexual harassment under Title IX.

a. Dismissal and Consolidation of Formal Complaints

If, at any point of the resolution process, it becomes apparent that the allegations contained within a report or formal complaint of sexual harassment, even if true, would not meet the scope/jurisdictional requirements for Formal Title IX Resolution Processes as set forth above, the

University will dismiss the complaint for purposes of processing under the University's Title IX Formal Resolution Process, but may proceed under a different policy or process for adjudication as the circumstances warrant.

Additionally, the University may, in its sole discretion, elect to dismiss any formal complaint of sexual harassment under the following circumstances:

- The Complainant requests, in writing, the withdrawal of the formal complaint,
- The Respondent is no longer employed or enrolled as a student at the institution, or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination or satisfy its own burden of proof in investigating and adjudicating a formal complaint of sexual or interpersonal misconduct.

If the University elects to dismiss a formal complaint, all parties will be notified in writing of the decision, and will be given the opportunity to appeal the decision.

The University may choose, at its sole discretion, to consolidate formal complaints where more than one Complainant and/or more than one Respondent is involved so long as the allegations of sexual harassment arise out of the same facts/circumstances. In such cases, the University may also choose to issue a single investigation report.

b. Initiating a Formal Complaint

When the University learns of potential sexual harassment, in most cases outreach to the Complainant will be made to identify reporting options (as described in Section I of this Policy) and to offer supportive measures. The Title IX Coordinator is available to meet to discuss those reporting options with the Complainant or to answer questions from the Respondent.

A Complainant who proceeds with a formal complaint must do so in writing, and by filing a complaint with the Title IX Coordinator by hard copy, email, or any other writing evidencing a physical or digital signature, or otherwise verifying the Complainant is filing the complaint. If the Title IX Coordinator signs a formal complaint, the Title IX Coordinator will not become a party or Complainant for purposes of the processes below.

The Title IX Coordinator will only initiate a formal complaint against the wishes of the Complainant where doing so is not clearly unreasonable based on known circumstances, based on the potential impact to the College community if the allegations were true.

c. Notice of Investigation

Upon the filing of a formal complaint, the Title IX Coordinator or designee will provide a written Notice of Investigation simultaneously to both parties notifying the parties of:

- the identities of the parties involved in the incident;

- the conduct alleged;
- the date and location of the incident;
- Respondent's entitlement to a presumption of innocence;
- The parties' rights to have an Advisor of their choice at the party's expense, who may be an attorney; and
- The parties' rights to review and comment on investigative evidence.

The written notice of investigation shall notify the parties that making false statements or knowingly submitting false information during the grievance process is prohibited by the University and may constitute an independent basis for disciplinary sanctions against any student or employee, up to and including suspension or expulsion of a student or termination of an employee's employment. The Notice will also include, if available, the name of the investigator(s) and a copy or link to any applicable Policy.

The Notice shall be provided prior to the initial interview of any party, and within a sufficient amount of time to allow the party to prepare.

If, during the course of investigation, the University determines that additional allegations will be investigated as part of the pending complaint, the Title IX Coordinator or designee will provide written notice of the additional allegations to any identified Complainant(s) or Respondent(s).

Parties will be provided written notice of the date, time, location, participants, and purpose of any interview, hearing, or meeting with sufficient time for the party to prepare.

d. The Investigation

The University will select an investigator or investigators who have received annual training relating to investigating campus matters of sexual harassment and conducting a prompt, equitable, and fair investigation. The investigation team may be composed of internal University employees, external professionals, or a combination of both.

Any Complainant or Respondent may request in writing that an investigator be recused because of an identified conflict of interest. The Title IX Coordinator will determine if a conflict exists.

The burden of proof and the burden of gathering sufficient evidence to reach a determination of responsibility rests with the University and not with the parties. The investigation may include, but is not limited to, interviews with the Complainant, the Respondent, any witnesses identified by the parties or by the investigator as having information relevant to the complaint, and collecting and reviewing any relevant documents, communications, or physical evidence if possible.

- The investigator(s) will interview the Complainant and Respondents separately. Each party will be asked to participate in an initial interview and may be asked to participate in a follow-up interview(s) as needed.
- Each party may offer witnesses and other information, documents or other evidence relevant to the complaint, both inculpatory and exculpatory. Information, documents or other evidence provided by the parties and witnesses may be shared with both parties during the investigation.
- The order of the interviews will be determined by the investigator(s) based on the circumstances of each complaint.
- The investigator(s) will make a good faith effort to contact and interview relevant witnesses.
- The investigator(s) may make an audio recording of the interviews, which would be used internally for purposes of the investigation and would not be shared with the parties.
- In the event Complainant or Respondent request reasonable accommodations during the investigation process due to a disability, the investigator(s) will consult with the Title IX Coordinator.

No party will be restricted in their ability to discuss the allegations or to gather and present relevant evidence; provided, however, that such communications shall not constitute harassment of, or retaliation against, any party.

The Investigator will evaluate all relevant evidence, both inculpatory and exculpatory. The Investigator will only access, consider, disclose, or otherwise use a party's treatment records made or maintained by a health care provider, or other records protected under a legally recognized privilege, if the party provides the Investigator with voluntary, written consent to do so.

e. Inspection and Review of Evidence Directly Related to Allegations and the Investigation Report

Complainant and Respondent and, unless directed otherwise by the respective parties, their Advisor(s), will be provided the opportunity to inspect all evidence directly related to the allegations of the formal complaint, including both inculpatory and exculpatory evidence, and evidence that the University does not intend to rely on in reaching a determination. This evidence will not include privileged medical information (unless the institution has the voluntary, written consent of the party concerned to use that information in the investigation) and prior sexual history (with the limited exception of evidence offered to prove someone other than the Respondent committed the alleged misconduct or evidence of prior sexual behavior between the parties offered to prove consent). The University may require both parties and their Advisors to enter into a written agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties' participation in the Title IX Formal Resolution Process.

Complainant and Respondent will be given *at least ten days* to inspect and review the evidence collected during the University's investigation and to submit a written response which the Investigator will consider in preparing a final investigation report. The final investigation report will summarize the information and include any documents gathered. The investigation report will not include determination of responsibility with regards to the complaint.

Additionally, Complainant and Respondent will be given at least an *additional ten days* after receiving a copy of the University's final investigation report to respond to the investigation report, in writing. In their written response to the investigation report, Complainant and Respondent may provide written comments regarding the relevance of the evidence included in or excluded from the investigation report, provide factual or other corrections to the report and otherwise provide context for the report.

The final investigation report will be distributed, concurrently, to all of the parties to the complaint and the decision-maker(s) by the Title IX Coordinator at least ten (10) calendar days prior to a hearing to assist the decision-maker(s) in determining responsibility with regards to the complaint.

f. Live Hearings and Cross-Examination

For purposes of adjudication of all formal complaints of sexual harassment under the University's Formal Title IX Resolution Process, regardless of the identity of the parties involved, the University will conduct a live pre-determination hearing prior to the issuance of a written decision report in accordance with the procedures outlined in the University's Student Code of Conduct, Faculty Manual, or other policy or procedure, except to the extent that those procedures conflict with the following live hearing and cross-examination requirements, which will apply to all formal hearings held under the University's Formal Title IX Resolution Process:

- At the University's discretion, or at the request of any party, the entire hearing may be conducted with the parties in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the witness answering questions;
- The University will record and/or create a transcript of all live hearings and will make that recording and/or transcript available to all parties for inspection or review;
- The University will make all evidence subject to inspection by all parties available at any hearing and will give each party equal opportunity to refer to that evidence at the hearing, including as part of cross-examination;
- Parties will be allowed, through their Advisors, to cross-examine all other parties and any witnesses, including fact and expert witnesses, and to ask all relevant questions and follow-up questions including those challenging party or witness credibility, at a live hearing conducted directly, orally and in-real time. Any party without an Advisor will be appointed an Advisor by the University, with selection of the Advisor being at the sole discretion of the University;

- All procedural questions, including the decision to accept evidence and/or statements, will be made by the decision-maker(s), in their sole discretion;
- Only relevant questions may be asked of a party or witness. Before a party or witness answers a question the decision-maker(s) will articulate whether the question is relevant and will explain the decision to exclude any question as irrelevant. Questions about prior sexual history will generally be deemed irrelevant with limited exceptions. The University will not allow the exclusion of any relevant evidence and the decision-maker(s) will consider all relevant evidence and will not consider irrelevant evidence;
- The University will not allow decision-maker(s) to rely on any statements made by a party or witness in reaching his or her determination if that party or witness does not submit to cross-examination during a live hearing; and
- The decision-maker(s) will not draw an inference about responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

g. Standard of Proof

The determination of whether or not sexual harassment occurred will be made on the basis of whether it is more likely than not that the Respondent violated this Policy. This standard is more formally referred to as the "preponderance of evidence" standard. In making its determination, the decision-maker(s) will carefully consider all of the evidence presented and follow the procedures stated in this Policy and any other applicable policies, procedures, rules, or handbook provisions in order to ensure as fair a hearing as possible for all parties.

h. Written Decisions

The University decision-maker(s) will independently evaluate the evidence gathered. Written decisions will be provided simultaneously to the parties and will include the following information:

1) allegations of sexual harassment,
2) procedural history (including specifics about notifications of hearings, meetings and interviews, methods used to gather evidence and hearings held),
3) findings of fact supporting the decision,
4) conclusions regarding application of this Policy and/or relevant Codes of Conduct to the facts,
5) rationale for the decision/finding of responsibility as it applies to each allegation,
6) disciplinary sanctions imposed on Respondent, if any,
7) whether (but not the nature of) remedies and/or supportive measures designed to restore/preserve equal access to any or all education programs or activities will be provided to the Complainant, and
8) procedure and permissible bases for appeal.

Decisions, including the imposition of any sanctions, will become final upon written notification to the parties of the outcome of an appeal or, if there is no appeal, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will be responsible for coordinating the effective implementation of remedies, as well as any non-punitive or non-disciplinary supportive measures imposed.

i. Appeals

All formal complaints of sexual harassment adjudicated under the University's Formal Title IX Resolution Process are subject to appeal by both Complainant and Respondent. All parties have an equal right to appeal any final decision on the following bases so long as the bases of the appeal is significant enough to be reasonably expected to affect the outcome of the decision:

- A procedural irregularity within the investigation or adjudication process;
- New evidence not reasonably available when determination of responsibility was made;
- A conflict of interest or the bias of the Title IX Coordinator, investigator or a decision-maker.

A party may also appeal based on the severity of sanctions imposed, if any, and specifically regarding whether the sanction is proportional and/or sufficiently remedial for the policy violation found.

The University will notify all parties upon receipt of an appeal by any party alleging one of the bases for appeal above. Both parties will be given an opportunity to submit a written statement in support of, or challenging, the written determination. Written statements must be submitted to the Title IX Coordinator within five (5) business days.

The original decision-maker(s) will determine if the decision and/or sanctions imposed will be stayed pending the outcome of the appellate decision. Except as required to explain the basis of new information, an appeal will be limited to a review of the verbatim record of the hearing and supporting documents.

The decision-maker(s) for the appeal may affirm, reverse, or modify the decision regarding the violation and/or sanctions imposed. A written decision will be issued simultaneously to the parties describing the result of the appeal and the rationale therefor. The written appeal decision is the final decision of the University, and no further appeals are permitted under this Policy.

j. Sanctions, Discipline, and Supportive Measures

University sanctions or discipline may be imposed upon those determined to have engaged in sexual harassment. If an investigation reveals that sexual harassment has occurred, the University will take actions reasonably calculated to end the harassment, eliminate any hostile

environment, prevent reoccurrence, and remedy any effects of the behavior. Sanctions or discipline issued will depend on the circumstances of each case and the weight of the evidence, will be proportionate to the behavior involved, and are imposed at the discretion of the decision-maker(s).

For complaints against students, the Code of Student Conduct identifies the sanctions that are available, which include expulsion, suspension, non-academic probation, removal from University owned housing, mandatory counseling, revocation of privileges, restitution, fines, educational or work assignments, or University reprimand.

For complaints against employees, discipline could range from counseling and reprimands to suspension or termination from employment, consistent with the governing employment manual or handbook, where applicable.

For complaints involving third parties, the University may not have authority to impose discipline, but the University can take steps aimed at stopping the behavior and preventing its recurrence on campus or through University programs or activities.

Regardless of whether discipline is issued in a particular case, the University may continue or impose non-disciplinary supportive measures to promote the health, well-being, and physical safety of any party if requested. An individual's failure to comply with restrictions imposed by supportive measures or through sanctions is a separate act of misconduct which may be a basis for disciplinary action, up to and including separation from the University.

k. Training

Investigators, adjudicators and other personnel involved in the process of investigating, responding, coordinating or otherwise assisting in the adjudication of complaints of sexual harassment will receive training as required on the topics of 1) impartiality, 2) avoiding prejudgment of facts at issue, 3) conflicts of interest and bias, 4) the University's grievance process, 5) issues of relevance and evidence, 6) the scope of the University's educational programs and activities, and 7) types of sexual harassment.

University investigators will also be trained in writing investigation reports and decision-makers will be trained in conducting hearings, writing decisions and the technology used in hearings. The training materials used to perform these trainings will be published on the University's website at www.drake.edu/titleix and will ensure that relevant personnel are trained on issues related to sexual harassment and are taught how to conduct an investigation and hearing process that protects the rights, well-being, and safety of the parties, provides an equitable process for all parties involved, and promotes accountability.

3. University Investigation and Adjudication Processes Outside the Scope/Jurisdiction of Title IX

Reports and formal complaints of sexual harassment which fail to satisfy the jurisdictional requirements established by federal regulations governing the University's response to sexual harassment under Title IX as required to be adjudicated under the University's Formal Title IX Resolution process will be investigated and adjudicated as follows, and includes sexual harassment meeting the definition in Section II(A)(1)(a) of this Policy, as well as the following additional form of sexual harassment under the Title VII, the Iowa Civil Rights Act, and other applicable law:

> Unwelcome behavior of a sexual nature or that is directed at someone because of their sex when such conduct is sufficiently **severe, persistent, or pervasive** that it has the purpose or effect of unreasonably interfering with or limiting an individual's work or education so as to create an intimidating, hostile, or offensive environment for work or learning or participating in a University program or activity.

a. Informal Resolution

The University has an obligation to eliminate misconduct and also to reasonably prevent a recurrence; even so, in many cases there may be different ways to satisfy that obligation, which may not always include a formal disciplinary process. In matters that fall **outside** of the scope of the University's Formal Title IX Resolution Process, the Title IX Coordinator and/or any of the parties may request an informal resolution. In those instances when the University's Formal Title IX Resolution Process does not apply, the Title IX Coordinator will attempt to balance the parties' desire to informally resolve the matter with the obligation to provide a safe, non-discriminatory environment for all students and employees. Informal resolutions may include education, structured communication, or other corrective action aimed at preventing a recurrence of the behavior. Formal sanctions or discipline may not be available through these informal resolution processes.

In considering a request for an informal resolution where applicable, the University will weigh the individual's request and preferences against factors such as how much detail has been shared about the conduct; the severity of the conduct and whether there have been other complaints against the same Respondent that increase the risk to the campus community or whether this is a first-time complaint; whether the reported incident involved threatened future violence or use of force or a weapon; whether an incident involved multiple people reported to have engaged in the misconduct; whether an incident involved alcohol, drugs, or any date rape drug; FERPA privacy consideration; or whether the University has other methods for obtaining relevant evidence or satisfactory outcomes. Based on this assessment, the University will decide whether it can reach a reasonable resolution or whether it must move forward with some action to investigate and/or adjudicate a policy violation.

If the University determines that it can proceed with some type of informal resolution, the University will take all reasonable steps to end the misconduct that can be taken consistent with such request. The University would not require any party to participate in an informal resolution in lieu of a formal complaint resolution if the formal process is their preference. Finally, because there may not be formal disciplinary action as part of the informal process, it may be possible for an individual to later choose to file a formal complaint after attempting an informal resolution.

There may be times when the University is not able to facilitate an informal resolution and still provide a safe, non-discriminatory environment for all students and employees. If the University decides that some formal action is required, the University will notify the parties regarding the actions to be taken.

As in any complaint, a party to an informal resolution may be provided or request support services such as counseling, disability services, a change in living or academic/work arrangements, and increased monitoring, supervision or security at locations and activities where the harassment occurred.

b. Formal Resolution

If a report or complaint is filed which alleges sexual harassment which is outside the scope of the University's Formal Title IX Resolution Process and is dismissed, the Title IX Coordinator will refer the complaint as appropriate for adjudication under another policy or process, as long doing so does not interfere with any right or privilege provided to a party under Title IX.

The formal resolution process for complaints will generally include an investigation, a decision regarding whether the investigation establishes a violation, whether disciplinary action will be recommended and, if so, the manner in which such disciplinary action will be imposed under the applicable University policy. When considering complaints of sexual harassment, the University will base its decision on the preponderance of the evidence standard (i.e., whether the decision maker can determine it is more likely than not that a policy violation can be established).

In the event a student or employee withdraws, resigns, or otherwise leaves the University, the University may decide to continue the investigation and adjudication process to the extent that it is able – whenever reasonably possible, the student or employee will be invited to participate even though they are no longer a part of the University.

Faculty and Staff: For complaints against faculty or staff, after review of the relevant facts and circumstances surrounding the complaint, the appropriate Administrator (generally the Dean/Vice President/designee of the Respondent's college or department or the Provost) and Human Resources will conduct an investigation and notify the parties whether the investigation established a policy violation or other misconduct.

Disciplinary Action against Faculty: For complaints against any member of the faculty, the University will follow the procedures outlined in Faculty Manual Section 4.10, Faculty Conduct, Corrective Action, and Discipline.

Disciplinary Action against Staff: If the University finds a staff member responsible for a policy violation or misconduct, any discipline will be consistent with any applicable collective bargaining agreement and University policies and will be carried out through the School, College, or Department and Human Resources. According to the At-Will Employment Policy: "Staff employment at Drake University is considered 'at-will' meaning that you and the University may end your employment at any time, with or without cause. One exception to this may be an employee who has signed an employment contract with the University."

Students: The Code of Student Conduct sets forth the formal disciplinary process for complaints against students.

However, to the extent the report or complaint against a student or employee alleges dating violence, domestic violence, domestic violence, or sexual assault which fall outside the scope of the University's Formal Title IX Resolution Process (e.g., the alleged conduct occurred outside the United States or without substantial control over the Respondent and the context in which the conduct occurred), the College shall provide the following procedural rights to the parties in the applicable adjudication process:

1. The parties will each have the opportunity to participate in the investigatory and disciplinary process which is overseen by individuals trained annual on sexual assault, dating violence, domestic violence, and stalking;
2. The parties will each have the opportunity to be advised by a personal Advisor of their choice, at their expense, at any stage of the process and to be accompanied by that Advisor at any meeting or hearing. An Advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing, except as expressly provided for in applicable procedures;
3. Decisions will be based on the preponderance of evidence standard. In other words, the investigator or adjudicator will determine if it is more likely than not that the Respondent violated the applicable policy;
4. The parties will be notified simultaneously in writing of the outcome of any disciplinary proceeding, as well as any changes to those results or disciplinary actions prior to the time that such results become final; and
5. If there is a right to appeal, the right is granted co-equally to all the parties and the right will be explained in the applicable procedures. The parties will be notified simultaneously in writing of the final outcome of an appeal, if applicable.

University sanctions for such misconduct could include the range of sanctions previously discussed within this Policy.

III. Prevention and Awareness

As part of its commitment to the prevention of sexual harassment, the University offers education and awareness programs. Incoming students and new faculty and staff receive prevention and awareness programming. The University makes continued education and related programs available on an ongoing basis for all students and faculty and staff. For an overview of the University's prevention and awareness programs and for specific programs and initiatives taking place on campus including bystander intervention, see the University's Violence Prevention and Programming website at http://www.drake.edu/violence-prevention/.

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