



DILLARD
UNIVERSITY

TITLE IX POLICY

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Introduction

Dillard University (the “University”) complies with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual and gender-based harassment, assault and sexual violence) based on gender in the University's educational programs and activities. Title IX also prohibits retaliation for asserting or otherwise participating in claims of gender discrimination. Dillard University has designated a Title IX Coordinator to coordinate compliance with and respond to inquiries concerning Title IX.

The University will take prompt and effective steps to end any sexual or gender-based harassment and discrimination, assault and/or sexual violence as well as to eliminate any hostile environment. It will take prompt and effective steps to prevent the recurrence of the prohibited conduct, and remedy any effects on the victim or others as appropriate.

The purpose of this policy is to define the conduct prohibited, describe the process for reporting violations of the policy, outline the process used to investigate and adjudicate alleged violations of policy, and identify some of the resources available to students, faculty and staff involved in any incidents that may violate this policy.

The University does not discriminate on the basis of sex in any education program it operates and Title IX prohibits such discrimination. Title IX’s prohibition against discrimination based upon sex extends to admission and employment. Inquiries about the application of Title IX may be referred to the University’s Title IX Coordinator (using the contact information listed below), or the Assistant Secretary for Civil Rights at the U.S. Department of Education.

Applicability and Prohibition

Members of the University community shall not engage in sexual discrimination, including relationship violence, stalking, or sexual misconduct (all of which are discussed in more detail below) against employees, students, or third parties. Persons who do so are subject to disciplinary action. The University also prohibits sexual discrimination, including relationship violence, stalking, and sexual misconduct by third parties towards members of the University community. The University prohibits retaliation, including retaliatory harassment, against individuals who report discrimination, relationship violence, stalking, or sexual misconduct or who participate in the University's investigation and handling of such reports.

This policy and the procedures for addressing complaints apply to all forms of sex discrimination, including sexual and gender-based harassment, assault, and violence, against students occurring in/at a University education program and/or activity. For the purpose of this policy, a “University education program or activity” includes locations, events, or circumstances over which the University exercises substantial control over both the respondent (see definition below) **and** the context in which the sexual harassment

occurs. Also included is any building owned or controlled by a student organization (like a fraternity or sorority) that is officially recognized by the University.

Pursuant to regulations promulgated by the Department of Education (“DOE”), sexual harassment that does not occur in/at a University education program or activity does not constitute a violation of Title IX. Accordingly, when alleged sexual harassment occurs outside of the University’s education program or activity (as defined by this policy) the University will conduct an investigation pursuant to the student disciplinary process established by the Student Handbook as opposed to this Title IX policy. Further, some conduct may not meet the strict definitions of sexual harassment provided for by the DOE’s regulations. In such instances, the University will investigate such conduct under the processes described in the Student Handbook.

Definitions

The following definitions shall apply to the matters related to the University’s Title IX policy:

- A. *Complainant*** – An individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- B. *University Education Program or Activity*** – Locations, events, or circumstances over which the University exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University (i.e., houses of sororities/fraternities recognized by the University).
- C. *Formal Complaint*** – A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the University investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an education program or activity offered by the University.¹ A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail by using the contact information listed below. As used in this definition, the phrase “document filed by a complainant” means a document or electronic submission (such as e-mail) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not the complainant or otherwise a party under this policy.
- D. *Respondent*** – An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

¹ If the complainant is not participating in or attempting to participate in a University program or activity, but still wishes to make a complaint regarding sexual harassment, he/she may still contact the Title IX Coordinator. The University considers any such allegation serious, but must investigate the matter outside of its Title IX policy.

E. Sexual Harassment – Conduct on the basis of sex that satisfies one or more of the following:

- (1) A University employee conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct (also known as “*quid pro quo*” harassment);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s educational programs or activities;² **or**
- (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

F. Supportive Measures – Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant, alleged victim, or respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or deter sexual harassment. Supportive measures may include counseling, restrictions on contact between parties, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The Title IX Coordinator shall determine the appropriateness of any supportive measure(s) based on all available information. The Title IX Coordinator will meet with a complainant or alleged victim or respondent to address any concerns about supportive measures. The University will attempt to ensure, where possible and as supported by available information, that such supportive measures minimize the burden and adverse effects on the complainant or alleged victim and the respondent.

The University will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures. Supportive measures may be kept in place until the end of any review or appeal process or may be extended permanently as appropriate.

² Conduct that does not meet the definition of “sexual harassment” as established by the U.S. Department of Education may still constitute misconduct under the University’s Code of Student Conduct. The University considers any such allegation serious, but must investigate the matter outside of its Title IX policy.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Violations of supportive measures, such as university no-contact orders and access restrictions, should be reported to the Title IX Coordinator. Students may face disciplinary action up to and including expulsion for such violations.

G. Consent – For the purposes of the University’s Title IX policy, “consent” is the permission one party or parties gives to another party or parties to engage in a specific sexual activity as defined in further detail below.

(1) *Basics of Consent*: Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Silence alone, without actions evidencing permission, does not demonstrate consent. While consent may be expressed by words or by actions, it is highly recommended that consent be expressed and obtained verbally. Non-verbal consent expressed through actions may lead to confusion and potential for misunderstandings, which can violate this policy. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. It is the responsibility of the initiator of any sexual activity to obtain their partner’s consent.

(2) *Who can give consent*: Consent must be knowing and voluntary. To give consent, a person must be at least 17 years old. Consent cannot be obtained through “coercion” or from an individual whom the respondent knows or reasonably should know is “incapacitated”. Coercion is the use of express or implied threats, intimidation, or physical force which places an individual in reasonable fear of immediate harm or physical injury.

An individual is considered to be incapacitated if, by reason of mental or physical condition, the individual is manifestly unable to make a knowing and deliberate choice to engage in sexual activity. Individuals who are under the influence of alcohol can be incapacitated. Individuals who are asleep, unresponsive or unconscious are incapacitated. Among the factors the University will use to assess whether someone is incapacitated are: inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance. The existence of any one of these factors will support a finding of incapacitation.

An individual’s use of alcohol or drugs does not diminish that individual’s responsibility to obtain consent if that individual is the one who initiates sexual activity.

(3) *Withdrawal of consent*: Consent to engage in sexual activity may be withdrawn by any person at any time. Once consent is withdrawn, the sexual activity must stop

immediately. Consent is automatically withdrawn by a person who is no longer capable of giving consent per subsection (2) above.

- (4) *Current and/or prior relationships and consent:* A current or previous consensual dating or sexual relationship does not imply consent or prevent finding someone responsible for the misconduct.

Gender Discrimination

Title IX of the Educational Amendments of 1972 prohibits gender discrimination at institutions of higher education. The University prohibits gender discrimination in any of its programs or activities. Sexual discrimination, including sexual assault, stalking, and other kinds of sexual violence, is a form of gender discrimination. This policy and its related procedures apply to complaints alleging all forms of gender discrimination (including sexual harassment, stalking, sexual assault, and sexual violence). For the purposes of this policy, references to sexual misconduct include all forms of sex discrimination, including sexual and gender-based harassment, assault, and violence.

Retaliation Prohibited

The University, its employees, staff, faculty, or any other person shall not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, regulations promulgated by the DOE, or this policy because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, regulations promulgated by the DOE, or this policy constitutes retaliation.

The University shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination established by this policy.

Title IX Coordinator

Dillard University has designated a Title IX Coordinator to coordinate compliance with and respond to inquiries concerning Title IX. Complaints should be made to:

Sheila Judge
2601 Gentilly Boulevard
New Orleans, Louisiana 70122
(504) 816-4370
sjudge@dillard.edu

Title IX complaints may also be filed with the Department of Education's Office for Civil Rights by visiting the U.S. Department of Education's website:

(<https://www2.ed.gov/about/offices/list/ocr/index.html>)
or calling 1-800-421-3481.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

Incidents covered by Title IX may also violate criminal law. Individuals who feel that they are also the victim of a crime should file a report with local law enforcement and/or the Dillard University Police Department (DUPD). Local law enforcement and DUPD may, depending upon the circumstances, pursue a complaint simultaneously. However, in most instances, Dillard University may briefly suspend its investigation until local law enforcement has completed gathering evidence for the criminal investigation.

A criminal investigation is intended to determine if an individual has violated criminal law and may result in an individual (the accused) being imprisoned or subject to other criminal penalties. Law enforcement has the sole discretion to charge the accused with violating criminal law. A Title IX investigation does not result in imprisonment and the University must conduct a Title IX investigation, even if a criminal investigation is ongoing. As described in more detail below, the University may temporarily extend timelines related to Title IX investigations during a criminal investigation into related allegations.

If the University suspends its investigation during the criminal law evidence gathering stage, the University will notify the complainant (the person filing the complaint or the alleged victim) and the accused or the respondent as appropriate under the particular circumstances. The University, however, will continue to take all measures to investigate the incident during the criminal investigation without impeding the criminal investigation.

The University may also put in place supportive measures to assist and protect the safety of the parties and the campus community and to prevent retaliation.

Prohibited Conduct

While the University prohibits any form of sexual harassment as defined in Article III above, for the sake of clarification, the University has listed additional descriptions/definitions of prohibited conduct below:

A. Dating Violence :

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The University will determine if such a relationship exists based upon a consideration of the length of the relationship, the type of relationship, and/or the frequency of interaction between the persons involved in the relationship.

For the purposes of this section, “violence” includes, but is not limited to, felony or misdemeanor crimes of violence as established by state and federal law.

B. Domestic Violence:

Felony or misdemeanor crimes of violence, including but not limited to the intentional use of force or violence, committed by:

- a) a current or former spouse or intimate partner of the victim;
- b) a person with whom the victim share a child in common;
- c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- d) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Louisiana; or
- e) by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of Louisiana.

C. Stalking:

A course of conduct directed at a specific person that would cause a reasonable person to:

- a) fear for their own safety or the safety of others; or
- b) suffer substantial emotional distress.

Stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person’s home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written, or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted.

NOTE: While, “cyberstalking” may not fall under the definition of “sexual harassment” under regulations established by the Department of Education, it is still prohibited by the University. Please refer to the University’s Code of Student conduct for the definition of cyberstalking. Any allegations of cyberstalking shall be investigated under the University’s standard disciplinary process.

D. Sexual Misconduct:

(1) *Sexual Misconduct (Generally)* – The University defines sexual misconduct as nonconsensual sexual intercourse, other sexual conduct (including attempted intercourse) without consent. This definition includes conduct classified as a crime under the laws of Louisiana such as rape, attempted rape, molestation, and other cases where the victim is unable to refuse or effectively consent to sexual advances. The definition applies regardless of whether the alleged assailant is a stranger or an acquaintance. Examples include, but are not limited to, forced insertion, oral copulation, rape by foreign object, sodomy and unwanted touching of an intimate part of another person for the purpose of sexual gratification. Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger or inanimate object. In some, very limited instances, sexual misconduct may not violate Title IX. In such instances, the University will pursue its investigation under the disciplinary process established in the Student Code of Conduct.

(2) *Sexual Assault* – Forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Such offenses include, but are not limited to:

i. *Sexual Battery* – The intentional touching of the breasts, buttocks, anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing without the victim’s consent (the University’s definition of “consent” is included in Article III above).

ii. *Rape* - The act of anal, oral, or vaginal sexual intercourse with a male or female person committed without the person’s lawful consent. For the purposes of this policy, “rape” shall also include circumstances where:

1. the victim is prevented from resisting the act by force or threats of physical violence under circumstances where the victim reasonably believes that such resistance would not prevent the rape.

2. the victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition

- of the mind produced by a narcotic or anesthetic agent or other controlled dangerous substance administered by the offender and without the knowledge of the victim.
3. the victim is incapable of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of mind produced by an intoxicating agent or any cause and the offender knew or should have known of the victim's incapacity.
 4. the victim, through unsoundness of mind, is temporarily or permanently incapable of understanding the nature of the act and the offender knew or should have known of the victim's incapacity.
 5. the victim submits to a sexual act under the belief that the person committing the act is someone known to the victim, other than the offender, and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the offender.

(3) *Sexual Exploitation*: Sexual exploitation is taking nonconsensual or abusive sexual advantage of another for one's own advantage, benefit, or edification or to benefit a person other than the one being exploited. Examples of sexual exploitation include, but are not limited to:

- Intentionally exposing a private or intimate part of one's body in a lewd manner to another without the other's consent;
- Committing any other lewd act in a public place;
- Prostituting another student;
- **Non-consensual video or audio recording of sexual activity;**
- Exceeding the boundaries of explicit consent, such as allowing friends to hide in a closet to witness one's consensual sexual activity;
- **Texting or taking pictures of sexual activity without the consent of either or both parties engaged in the sexual activity and/or transmitting/sending the pictures or likeness via any electronic medium or social media;**³
- Texting, taking or transmitting/sending via social media, email or other electronic media of another's intimate parts without their consent. (Note: this includes disclosures when the person disclosing the image knew or should have known that the person in the image did not consent to the disclosure of the image);
- Engaging in non-consensual voyeurism; and/or
- Knowingly transmitting a sexually transmitted disease/infection or HIV to another student.

³ The University draws particular attention to misconduct associated with social media accounts to emphasize that a consensual act could later constitute misconduct if recorded and published in an electronic format. This includes images that may have been taken for private use but were later disclosed to a wider audience without the consent of the individual(s) who appear in the image.

- (4) *Verbal Sexual Abuse* – Sexual verbal abuse is language that is sexual in nature and unwanted on the part of another person. Examples include, but are not limited to, obscene telephone calls and use of written and/or oral communication that would be considered obscene.

Confidentiality

This policy is intended to provide the University community with a positive working and learning environment that is free from sexual misconduct. Complaints of sexual misconduct will be investigated in a manner that is consistent with this goal. Although the University respects a complainant's or alleged victim's interest in keeping certain Title IX incidents confidential, the University may be unable to comply with the request for confidentiality. To the extent possible, the University will keep the complaint and investigation confidential and will make every reasonable effort to handle inquiries, complaints, and related proceedings in a manner that protects the privacy of all parties. Each situation is resolved as discreetly as possible, with information shared only with those who need to know. Because Title IX and the University prohibit retaliation, the University will take proper steps to prevent such retaliation and will take strong responsive action if such retaliation occurs.

In those instances where a complainant or alleged victim requests anonymity, the University will try to honor the request, if possible. However, the University must inform the complainant or alleged victim that anonymity may limit the University's ability to fully and effectively investigate the complaint or take corrective action. In certain circumstances, the University may be able to address an individual's concerns and stop problematic behavior without revealing to the accused the complainant's or alleged victim's identity and/or the individuals involved in the investigation. However, this is not possible in every matter, as some situations require the disclosure of the complainant's or alleged victim's identity in order to fully investigate the matter and/or to enable the respondent to fully respond to the allegations against him or her.

In those instances where the complainant or alleged victim requests anonymity or refuses to participate in an investigation, the Title IX Coordinator will determine whether to proceed with an investigation based on concern for the safety or well-being of the broader University community. The University reserves the right to take appropriate action in such circumstances, even in cases when the complainant or alleged victim is reluctant to proceed. In making this evaluation, the University may consider the following:

- The seriousness of the alleged incident;
- The age of the alleged victim;
- Whether there have been other complaints or reports of policy violations against the accused individual;
- The rights of the accused individual to receive information about the accuser and the allegations if a proceeding with sanctions may result;

- The increased risk that the accused individual will commit additional acts of relationship violence or sexual misconduct, such as: (a) Whether there have been other relationship violence or sexual misconduct complaints about the same alleged perpetrator; (b) Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence; (c) Whether the alleged perpetrator threatened further relationship violence or sexual misconduct against the alleged victim or others; (d) Whether the relationship violence or sexual misconduct was committed by multiple perpetrators; and/or (e) Whether there have been threats to kill or harm the alleged victim;
- Whether the alleged policy violation was perpetrated with a weapon; and/or
- Whether the University possesses other means to obtain relevant evidence of the policy violation (e.g., security cameras or personnel, physical evidence).

Reporting Possible Violations

All reports describing conduct that is inconsistent with this policy will be promptly and equitably resolved in accordance with Title IX and other relevant laws and regulations.

All individuals are encouraged to promptly report conduct that may violate this policy to the University through its Title IX Coordinator. As discussed above, notice may be given at:

Sheila Judge
2601 Gentilly Boulevard
New Orleans, Louisiana 70122
(504) 816-4370
sjudge@dillard.edu

In addition, all individuals are encouraged to report conduct that may also violate criminal law to both the University and/or to local law enforcement. These processes are not mutually exclusive.

The University strongly encourages individuals affected by sex or gender-based discrimination, sexual harassment, relationship violence, stalking, and sexual misconduct to talk to someone about what happened and obtain support services. The University also needs to respond appropriately to complaints in order to provide a safe and effective learning environment.

The University can most effectively investigate and respond to alleged violations if the complaint is made as promptly as possible after the alleged violence or misconduct occurs. The University does not, however, limit the period for reporting. If the respondent is not a member of the University community at the time of the report, the University will still seek to meet its legal obligations by providing reasonably available support for a complainant or alleged victim, but its ability to investigate and/or take action

may be limited. The University will assist a complainant or alleged victim in identifying external reporting options.

The University encourages students to report all incidents of relationship violence or sexual misconduct. Therefore, students who in good faith report violations of this policy will not be disciplined by the University for a violation of the University's drug and alcohol possession or consumption policies that may have occurred in connection with the reported incident.

Students may also report concerns to the University hotline at (1-866-943-5787). The University hotline is staffed by call-takers who are not employed by the University. Hotline call-takers can receive anonymous complaints and concerns by students. Students using the hotline should know, however, that it may not be possible for the University to fully investigate an anonymous hotline complaint.

Mandatory Reporters

All University employees, other than counselors, pastors, advocates and/or those employees legally obligated to maintain student complaints as confidential (referred to in this policy as “confidential sources”), must report violations, including sexual and gender-based harassment, assault and violence that they observe or learn about, immediately to the attention of the Title IX Coordinator. Failure to do so can result in discipline, up to and including immediate discharge.

Employees must report all relevant details about the alleged incident, including the name of the alleged victim, the accused, any witnesses, and any other relevant facts, including the date, time, and specific location of the incident. The University will treat any requests for confidentiality in the manner described in the preceding section. If the complainant or alleged victim wants to tell the employee what happened, but also wants to maintain confidentiality or anonymity, the employee should tell the complainant or alleged victim that the University will consider the request but cannot guarantee confidentiality or anonymity. The employee should advise the complainant or alleged victim that the incident will be disclosed only to those officials with a legitimate institutional interest in knowing the information. In reporting the incident to the Title IX Coordinator, the employee will inform the Coordinator of the complainant's or alleged victim's request for confidentiality or anonymity.

When an individual discloses an incident of relationship violence or sexual misconduct to a confidential source(s), the University is unable to investigate or pursue disciplinary action against an alleged perpetrator identified in such an incident without written permission from the complainant or alleged victim. This holds true when the alleged perpetrator is a student or employee and the incident has only been reported to the confidential sources. If the complainant or alleged victim also reports the incident of relationship violence or sexual misconduct directly to the University, law enforcement, a mandatory reporter, or a confidential reporter who has been given written permission, the

incident will be addressed as described in this policy. Counselors and advocates who are able to maintain confidentiality of reports will still assist their clients in receiving support services, regardless of whether a report is made. At the client's option, this will include coordinating with the University to provide any necessary interim measures.

A complainant or alleged victim who requests confidentiality always has the option to file a complaint with the University or law enforcement and have the incident fully investigated. Safety risks associated with the University contacting or interviewing the accused will be taken into consideration before that occurs. Consideration will be taken especially in cases where the complainant or alleged victim is fearful and does not want the accused contacted, or when the threats and abuse may escalate and put the alleged complainant or victim in increased danger due to the investigation process.

As discussed above, the University will attempt to balance a complainant's or alleged victim's request for anonymity or not to participate in an investigation with the University's broader obligation to campus safety and the respondent's or accused's rights to respond to allegations.

Students who are not also employees do not have reporting obligations under this Policy. Nevertheless, students who have witnessed relationship violence or sexual misconduct are strongly encouraged to promptly report such information to the University.

Processing Complaints and Reports

All complaints are reviewed by the Title IX Coordinator. The University will process all complaints it receives, regardless of where the conduct that is the basis for the complaint occurred. In the event that the alleged conduct does not meet the definition of "sexual harassment" under this policy, the matter will be referred to the Dean of Students for investigation under the Student Code of Conduct. The Title IX Coordinator may also determine that an investigation is warranted without a complaint if the University has sufficient notice that a violation may have occurred. The University is not prevented from investigating an alleged violation simply because the complainant or alleged victim either did not directly bring the complaint or does not want to participate in an investigation.

To the extent applicable, when a complaint is received, the University will provide a written explanation to the complainant or alleged victim and respondent summarizing their respective rights and options. Even if an investigation is not warranted, the University will take prompt, responsive action to support a complainant or alleged victim and will take steps to eliminate, prevent, or address a hostile environment if one exists.

Investigations and Hearings

The investigatory and appeal processes described below apply when the respondent is a Dillard student. Allegations of sex or gender discrimination against faculty and staff are handled in a manner consistent with the Faculty Handbook and Employee Handbook respectively.

The University does not allow conflicts of interest, real or reasonably perceived, by those investigating or adjudicating allegations under this policy. A conflict of interest exists when an individual's knowledge of the matter or personal or professional relationships with the complainant, alleged victim, respondent, or witnesses would preclude the individual from being able to investigate or adjudicate the case fairly and impartially. Individuals who wish to challenge an investigator because of a conflict of interest may do so by filing a challenge with the Title IX Coordinator within five (5) business days of an investigator being appointed. The Title IX Coordinator retains sole discretion to determine whether a conflict exists and to otherwise take appropriate actions to address the issue in a prompt and equitable manner. In the event that the Title IX Coordinator is the investigator, the Vice President of Student Success or his/her designee shall have the sole discretion to determine whether or not a conflict exists.

A. Notice

Both the complainant or alleged victim and the respondent/accused will be promptly notified when an investigation begins. The notice will be sent via email from the Title IX Coordinator. All notices provided to a student will be sent to the student's official University email account. Students are required to regularly check their email accounts.

Unless reasonable extensions of time are needed, the University will notify both the complainant or alleged victim and respondent within ten (10) business days of receipt of the formal complaint.

The notice to both the complainant or alleged victim and the respondent/accused shall include details regarding the allegations, known by the University at the time, and provide all parties with sufficient time to prepare a response before any initial interview. For the purpose of this policy, the notice shall include, the alleged conduct that potentially constitutes sexual harassment as defined by regulations promulgated by the DOE; the identities of all parties involved in the alleged incident (if known); and the date and location of the alleged incident (if known).

The written notice will also include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process.

Finally, the notice shall inform the complainant or alleged victim and respondent of their ability to; participate in the investigation and timelines for responding; have an advisor of their choice, who may be, but is not required to be, an attorney; and inspect and review

evidence regarding the allegations. Additionally, both the complainant or alleged victim and respondent shall be notified of the investigator's identity and their ability to challenge the assignment of the investigator. The complainant or alleged victim and respondent shall be further advised that the investigation may proceed without the participation of either party and that the University's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the University learns of additional allegations relating to the complainant, alleged victim or respondent and decides to investigate such allegations, the University will provide notice to all known parties of the additional allegations.

B. Dismissal and Consolidation of a Formal Complaint

- (1) The University shall investigate the allegations contained in a formal complaint. If, however, the conduct alleged in the formal complaint: a) would not constitute sexual harassment as defined by regulations promulgated by the DOE, even if proved, b) did not occur in/at a University education program or activity, or c) did not occur against a person in the United States, then the University will cease pursuing the formal complaint under the Title IX policy. The University may investigate the allegations contained in the formal complaint as a disciplinary matter pursuant to the University's Code of Student Conduct.
- (2) The University may dismiss a formal complaint, or any allegations contained therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator, in writing, that the complainant would like to withdraw the formal complaint or any allegations therein; b) the respondent ceases to be enrolled in or employed by the University; or c) specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- (3) The University shall provide written notice of any dismissal, and the reasons for such dismissal, to all parties.
- (4) The University may consolidate formal complaints as the allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

C. Investigation and Grievance Process

The University shall initiate the grievance process described below to address all formal complaints of sexual harassment. Prior to the imposition of any disciplinary sanctions or other actions that are not "supportive measures" as defined by this policy, the University shall follow the grievance process.

(1) Evidence

- a) The University shall not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a grievance process under this policy.
- b) The University shall provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory evidence (evidence that tends to establish responsibility) and exculpatory evidence (evidence that tends to establish respondent is not responsible).
- c) The University shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- d) The University shall provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- e) Prior to completion of the investigative report, the University must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten (10) business days to submit a written response, which the investigator will consider prior to completion of the investigative report. The University will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination;

(2) Grievance Process: Basics

Pursuant to regulations promulgated by the U.S. Department of Education, the University has established the following requirements for its grievance process:

- a) The University will treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against a respondent.

- b) At all stages in the process, investigators and decision-makers investigate and make findings on the merits of an alleged violation using a preponderance of the evidence standard. Preponderance of the evidence means that the greater weight of the evidence favors either the finding of a violation or the finding of a non-violation. This standard is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence presented.
- c) The grievance process will include an objective, impartial evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based upon a person's status as a complainant, respondent, or witness.
- d) The University shall provide extensive training to Title IX Coordinators, investigators, decision-makers, or any person designated by the University to facilitate an informal resolution process.
- e) Title IX Coordinators, investigators, decision-makers, or any person designated by the University to facilitate an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Any complainant or respondent who suspects such a conflict of interest or bias should immediately report such a suspicion to the Title IX Coordinator or Dean of Students.
- f) A respondent shall not be found responsible for the alleged conduct unless/until a determination regarding responsibility is made at the conclusion of the grievance process.
- g) The University shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- h) During the investigation and grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility shall rest with the University, not the parties. This does not preclude either the complainant or respondent from presenting the University with information and/or evidence that he/she believes is relevant to the investigation.

(3) Grievance Process: Time Frames

- a) Notice: Once the University is in receipt of a formal complaint, the Title IX Coordinator shall facilitate an investigation and provide notice of the

allegations to all known parties to the complaint within ten (10) business days. Included in such notice shall be:

- i. A copy of the University's grievance process and Title IX policy;
 - ii. A detailed description of the allegations that, if substantiated, could constitute sexual harassment as defined by this policy and federal regulations;
 - iii. Sufficient details related to the allegations to allow parties to prepare a response before any initial interview.
 - iv. Notification to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
 - v. Describes the standard of evidence that will be used (namely, preponderance of the evidence).
 - vi. A list of possible sanctions the University may impose.
- b) Investigation: Within ten (10) calendar days of the University's receipt of a formal complaint, a trained individual designated by the Title IX Coordinator shall initiate an investigation into the allegation contained in the formal complaint.
- c) Temporary Delay: The University may temporarily delay the grievance process or extend time frames for good cause. Such good cause shall be expressed in writing (including via email) to witnesses, complainants and respondents. "Good cause" includes, but is not limited to, the absence/unavailability of a party, party advisor or a witness; concurrent law enforcement activity; the need to arrange for translation services; or provide an accommodation for disabilities.
- d) Amendment Notice of Charges: If, in the course of an investigation, the University decides to investigate allegations about the parties that were not contained in the initial notice of charge, the University will provide notice of the additional allegations to the parties whose identities are known.

(4) Grievance Process: Investigative Meetings

- a) The University shall provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
- b) The University shall not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding. However, an advisor may not engage in disruptive or disrespectful conduct during the course of any proceeding. The University or its designee may postpone any proceeding in response to disruptive or disrespectful behavior. Any failure on the part of an advisor, student or employee to adhere to

instructions regarding decorum may result in disciplinary sanctions against the student or employee including, but not limited to fines.

- c) During investigative meetings (as opposed to grievance hearings described in more detail below) an advisor is a silent and non-participating presence who is there solely to observe and provide support during the meeting. The investigator shall determine what constitutes appropriate behavior on the part of an advisor and may postpone a meeting in the event the investigator determines that the advisor is not acting appropriately. The advisor is encouraged to join the complainant or alleged victim or respondent during the initial meeting with the Title IX Coordinator for an orientation of the University's policies and procedures, privacy protections and expected participation/decorum. The advisor may not be a fact witness or otherwise have any conflicting role in the process.
- d) The University will provide written notice of the date, time, location, participants and purpose of all hearings, interviews, or other meetings to the party whose participation is invited or expected. The University will provide the party with advanced notice in order to provide the party with sufficient time to prepare and participate.
- e) The complainant or alleged victim will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence to the investigator. The respondent will have the same opportunity to present supporting witnesses or other evidence. The investigator will review evidence presented and may meet with additional witnesses identified by the complainant, alleged victim, the respondent, or third parties, as deemed appropriate in the sole discretion of the investigator.
- f) All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information throughout the investigation process. The investigator may interview the parties on more than one occasion, if necessary.

(5) Grievance Process: Investigative Report:

- a) Unless good cause exists for an extension of time, within thirty (30) business days following receipt of a formal complaint, the investigator shall prepare an investigative report for review by the Title IX Coordinator. Such a report shall not contain any definitive finding regarding whether the respondent engaged in sexual harassment. The Title IX Coordinator will review the report to ensure that a thorough and equitable investigation was conducted. If the Title IX Coordinator concludes that additional witnesses should be interviewed, additional evidence should be considered, or has questions regarding the report, the Title IX Coordinator can request the investigator address any and all deficiencies or questions identified.

- b) Following review by the Title IX Coordinator, the investigator shall finalize an investigative report that fairly summarizes relevant evidence. The investigator shall then send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.
- c) After the parties have been provided a reasonable opportunity to review and respond to the investigative report (no more than five calendar days), the University shall schedule a grievance hearing. The investigator shall issue any investigative report a minimum of ten (10) business days prior to a hearing (if a hearing is required under this section or otherwise provided).

(6) Grievance Process: Hearings

- a) **Live Hearings:** The University shall provide for a live hearing in the event that an investigative report concludes that there is sufficient evidence to suggest that a Title IX violation may have occurred. The University or designee shall select a decision-maker(s) to preside over the live hearing. Neither the University's Title IX Coordinator nor the investigator(s) assigned to the formal complaint may serve as a decision-maker(s).
- b) **Advisors:** At the live hearing, the decision-maker(s) shall permit each party's advisor to ask the other party, and any witness, all relevant questions and follow-up questions, including, but not limited to, questions that go to a party's or witness's credibility. If a party does not have an advisor present at the live hearing, the University must provide without fee or charge to that party, an advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
- c) **Cross-examination:** Cross-examination questions shall be permitted at the live hearing and must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. (Note: While the University's mandate that all advisors and parties behave in a professional and respectful manner, decision-makers must permit an advisor to ask cross-examination questions). If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

- d) **Relevancy Determination:** The decision-maker(s) shall only allow relevant direct-examination and cross-examination questions. Before a party or witness answers a question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, 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 if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. Questions regarding the respondent's character or reputation with respect to other sexual activity is never relevant and will not be considered as evidence unless used to establish a pattern or practice of conduct similar in nature by the respondent.
- e) **Hearing Location:** At the University's discretion, or at request of either party, the University shall conduct the live hearing with the parties in separate rooms provided that there is technology available and implemented that enables the decision-maker(s) and parties to simultaneously see and hear the party or witness answering questions. At the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- f) **Record of Hearing:** The University shall create an audio or audio/visual recording or transcript of any live hearing and make such a recording available to the parties for inspection and review.

(7) Grievance Process: Decision

- a) The decision-maker(s) must issue a written determination regarding responsibility within ten (10) business days of the conclusion of the live hearing.
- b) In reaching a determination, the decision-maker(s) must apply the preponderance of evidence standard.
- c) The written determination must:
 - i. Identify the specific allegations that potentially constitute sexual harassment as defined by this policy;
 - ii. Include a description of the procedural steps taken by University personnel from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and/or witnesses, site visits, methods used to gather evidence and hearings held;

- iii. Recite the findings of fact that support the determination;
 - iv. List conclusions regarding the application of the University's Title IX Policy and/or the code of conduct to the facts;
 - v. Include a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the respondent, and any whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the complainant; and
 - vi. Provide the parties with the permissible bases for the complainant and/or respondent to pursue an appeal.
- d) The University must provide the written determination to all parties simultaneously. The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Emergency Removal

In certain circumstances, the University may remove a respondent from an academic program or activity on an emergency basis. Prior to such removal, the University will undertake an individualized safety and risk analysis to determine if there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment. If the University makes such a determination, it will provide the respondent with notice and an opportunity to challenge the decision immediately following removal.

The University may place a non-student employee respondent on administrative leave pending the completion of the grievance process described above.

Potential Remedial Actions and Disciplinary Sanctions

If the decision-maker(s) determines that the respondent is responsible for sexual harassment in violation of Title IX, the University shall implement the appropriate, enforceable sanction. Such sanction shall be reasonably calculated to stop the violation and prevent its recurrence.

Possible disciplinary sanctions may include, but are not limited to, written warnings, loss of privileges, mandatory training or counseling, probation, suspension, exclusion, and expulsion. The University's response to a finding of responsibility depends upon several factors, including the severity of the conduct and any prior policy violations, and aims to

prevent problems from recurring and remedy any discriminatory effects on a complainant, alleged victim, or others.

In addition, the University may take steps to address the effects of the conduct on victims and others, including, but not limited to, counseling and support resources, academic and housing assistance, change in work situations, leaves of absence, and training or other preventative measures.

Appeals

The complainant or alleged victim or respondent may appeal a dismissal or decision rendered by the decision-maker. Both parties may participate equally in the appeal process even if the party did not file the appeal himself or herself. The University's Vice President of Student Success shall be the decision-maker for any appeal. Appeals must be filed with the Dean of Students within ten (10) business days of the party's receipt of the decisions.

The basis for appeal are:

1. A procedural irregularity that allegedly affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that affected the outcome of the matter; or
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

In the event that a party appeals a determination, the University shall:

1. Notify the other party in writing when an appeal is filed and implement the appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in the grievance process above;
4. Give all parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the determination;

5. Ensure that the decision-maker(s) for the appeal issues a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision regarding the appeal simultaneously to both parties within ten (10) business days of receiving the appeal unless good cause exists to delay issuance of an appeal decision.

Informal Resolution

Following the issuance of the investigative report, but prior to the decision-maker(s) reaching a determination regarding responsibility, the University may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. A party may decline to participate in the informal resolution process and the University shall not require, as a condition of enrollment, continuing enrollment, employment, continuing employment, or enjoyment of any other right, waiver of the parties' right to an investigation and adjudication or formal complaints of sexual harassment.

In facilitating such a process, the University shall:

1. Ensure all parties have a copy of the investigative report;
2. Provide to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, if any, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
3. Obtain the parties' voluntary, written consent to the informal resolution process.

In the event that the parties are unable to agree upon a resolution, the facilitator(s) of the informal resolution process shall not serve as witnesses in any subsequent hearing between the parties. Statements made by the facilitator(s) and/or parties shall not be admissible in any subsequent meeting or hearing.

The University shall not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Record Keeping

The University shall create, make available to the complainant and respondent, maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under paragraph (b)(6)(i) of this section, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the University's education program or activity;
2. Any appeal and result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The University will make these training materials publicly available on its website, or if the University does not maintain a website the University must make these materials available upon request for inspection by members of the public.

The University shall create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the University must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's educational program or activity.

If the University did not provide a complainant with supportive measures, then the University will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The University may supplement such records in the future.

Required Trainings

The Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process (whether internal or external) shall receive training on the definition of sexual harassment under this policy, the scope of the University's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. These individuals shall receive annual training on the issues related to domestic

violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

Decision-makers shall receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators shall receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints of sexual harassment.

VIOLENCE PREVENTION POLICY

Violence prevention on campus is a community responsibility. It is the responsibility of all students and employees to be alert to the possibility of campus violence on the part of prospective, current, or former students or employees as well as campus visitors. Students shall immediately report any violent behavior, potential for violent behavior, or threatening behavior to the Office of the Dean of Students or the Dillard University Police Department. Employees shall immediately report any violent behavior, potential for violent behavior, or threatening behavior to Human Resources or the Dillard University Police Department.