

# Sexual Misconduct Policy

## Villanova University

The most up-to-date Sexual Misconduct Policy can be found [here](#).

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Note on gender-inclusive language: Portions of this policy utilizes they/them/their as singular pronouns.

### **I. INTRODUCTION**

Villanova University seeks to foster and maintain a community of mutual respect and concern for all of its members. There can be no greater violation of the terms of that community, or of the essential dignity of any member of it, than an act of sexual assault, sexual harassment, dating violence, domestic violence, stalking or other forms of misconduct described in this Policy (collectively referred to as “sexual misconduct”). These acts constitute the deepest affront to University standards and will not be tolerated in any form. The University expects all members of the Villanova community to conduct themselves in a manner consistent with the Villanova Mission Statement and its Enduring

Commitments available at [http://www1.villanova.edu/villanova/president/about\\_university/mission./html](http://www1.villanova.edu/villanova/president/about_university/mission./html) and all applicable University policies. This Policy provides the framework for eliminating sexual misconduct from our community, preventing its recurrence, and addressing its effects.

Villanova University prohibits sexual misconduct, as detailed in the definitions below and as further clarified in some instances under Federal and Pennsylvania law. Some acts constitute prohibited conduct under Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), and other Federal and State laws. Acts of sexual assault, dating violence, domestic violence or stalking may also be violations of the Pennsylvania Criminal Code. Pennsylvania criminal law definitions can be found at <https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/18.HTM>. The University reserves the right to address behavior that violates this Policy regardless of whether the conduct also violates Federal, State and/or municipal civil or criminal law.

Villanova prohibits all forms of sexual misconduct, as defined in Section II of this Policy, and any person, including students, staff, and faculty, found responsible for such conduct will face disciplinary actions up to and including dismissal or expulsion from the University. See Appendix B for the complete Title IX Notice of Non-Discrimination, applicable to matters involving conduct prohibited under Title IX.

Should an incident of sexual misconduct occur, the University has both reporting procedures and support resources in place so that no one needs to face the effects of such an incident alone. The first concern is for the safety, health, and well-being of those affected. Confidential and private options for support and reporting are available both on and off campus (Section IV & Appendix A). The University has also adopted grievance procedures to identify, investigate, adjudicate, and address reports of sexual misconduct.

It is the responsibility of every member of the Villanova community to foster an environment free from sexual misconduct. All members of the community are strongly encouraged to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. This may include direct intervention when safe to do so, enlisting the assistance of others, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive responsibility will be supported by Villanova University and protected from retaliation.

Anyone making a report, filing a complaint, or participating in the investigation or resolution of an allegation of sexual misconduct is protected by law and this Policy from retaliation. The University will take prompt and responsive action to all reports of retaliation.

The University will respond promptly and equitably to all reports of sexual misconduct to ensure the safety of the reporting person and the Villanova community, and to provide an environment that is free from gender and sex discrimination.

## **II. SCOPE AND JURISDICTION**

This policy protects all members of the Villanova community, including students, staff, faculty, and third parties who are participating or attempting to participate in the University's programs or activities. All community members share the responsibility for creating and maintaining an environment that promotes the safety and dignity of each person.

This policy applies to on-campus conduct as well as any off-campus conduct by a University student, faculty or staff that has an adverse impact on any member of the University community or the University. All conduct outlined below is

prohibited under this policy and, in some instances, may also constitute behavior prohibited under Title IX. In order to fall under the scope of Title IX, the conduct must take place during a Villanova University education program or activity in the United States, which includes:

- All of the University's operations
- Any on-campus premises
- Any off-campus premises, events, or circumstances over which Villanova University has substantial control over both the Respondent and the context in which the conduct occurs including any buildings or property owned or controlled by a student organization that is officially recognized by the University
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of, Villanova University's programs and activities over which the University has substantial control over both the Respondent and the context in which the conduct occurs.

Any individual may make a report to the University. A formal complaint may be filed under this Policy by a student, faculty, staff or other individual who is participating in, or attempting to participate in, the University's education program or activity at the time of filing the complaint. Additionally, in certain circumstances, the Title IX Coordinator may file a formal complaint to address the safety of the broader educational community.

The University's ability to respond to a report of prohibited conduct under this policy is based on its disciplinary authority over the Respondent. If the Respondent is not an employee or student, the University's ability to take disciplinary action will be limited and is determined by the context of the prohibited conduct.

### III. PROHIBITED CONDUCT AND DEFINITIONS

#### A. PROHIBITED CONDUCT

**SEXUAL MISCONDUCT:** The term sexual misconduct is a comprehensive term that encompasses any unwelcome conduct of a sexual nature and includes dating violence, domestic violence, sexual assault, sexual exploitation, sexual and gender-based harassment and stalking.

**SEXUAL ASSAULT:** Having or attempting to have sexual intercourse or sexual contact with another person without consent. This includes sexual intercourse or sexual contact achieved by the use or threat of force or coercion, where a person does not consent to the sexual act, or where a person is incapable of giving consent because of their age or their temporary or permanent mental or physical incapacity. Sexual assault includes rape, fondling, incest, and statutory sexual assault, defined as follows:

- **Rape – Attempted or Actual Penetration(s):** Causing or attempting to cause non-consensual 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.
- **Fondling – Non-Consensual Sexual Contact:** The non-consensual touching of the private body parts of another, for the purpose of sexual gratification. This can include causing the other to touch the Respondent's private body parts.
- **Incest –** Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- **Statutory Sexual Assault** – Statutory sexual assault is sexual intercourse with a person who is under the statutory age of consent. In Pennsylvania, individuals under 13 years of age can never consent to intercourse; individuals younger than 16 years of age can never consent to intercourse with a partner more than four years their senior.

**SEXUAL EXPLOITATION:** Sexual exploitation is an act or omission to act that involves taking non-consensual or abusive sexual advantage of another, either for personal advantage or to benefit or advantage anyone other than the Complainant. Examples of sexual exploitation include but are not limited to the following:

- Creating images, photography, video, written, or audio recording of sexual activity, undressing, and/or nudity, or distribution of such without the knowledge and consent of all parties involved
- Engaging in sexual extortion by threatening to distribute real or perceived to be real images, photography, video, written, or audio recordings of sexual activity, undressing, and/or nudity, in exchange for anything of value;
- Voyeuristic behaviors such as observing or facilitating observation of sexual activity, undressing and/or nudity of another person, without the knowledge and consent of that person;
- Engaging in sexual behavior while knowingly exposing another individual to a sexually-transmitted infection (STI) or human immunodeficiency virus (HIV) without full and appropriate disclosure to the other person of all health and safety concerns;
- Engaging in or attempting to engage others in any sexual behavior in exchange for something of value;
- Intentionally, knowingly, or surreptitiously providing drugs or alcohol to a person for the purpose of sexual exploitation; or
- Exposing another person to sexually explicit or lewd material without the person’s advanced knowledge and consent.

**STALKING:** Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to fear for their safety, or the safety of others, or suffer substantial emotional distress. The course of conduct means two or more instances including but not limited to unwelcome acts in which an individual 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. This includes cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or make unwelcome contact with another person. Substantial emotional distress means significant mental suffering or anguish.

**SEXUAL HARASSMENT.** Sexual harassment is unwelcome conduct of a sexual nature whether verbal, non-verbal, graphic, physical, electronic, or otherwise including but not limited to:

- **Sexual advances**
- **Non-consensual kissing**
- **Requests for sexual favors**
- **Quid pro quo** - employee explicitly or implicitly conditions the provision of an employment or academic aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct.
- **Hostile environment** - unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal access to a University education program or activity.

**DATING VIOLENCE:** Dating violence is an act of violence or the threat of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship is determined based upon the length of the relationship, the type of the relationship and the frequency of interaction between the persons involved in the relationship. Includes physically, sexually, and/or psychologically abusive behavior that arises in the form of a direct violent act, or indirectly as acts that expressly or implicitly threaten violence. Dating violence also occurs when one partner attempts to maintain power and control over the other through one or more forms of abuse, including sexual, physical, verbal, financial or emotional abuse.

**DOMESTIC VIOLENCE:** Domestic violence is an act of violence or threat of violence committed by a current or former spouse or intimate partner, or by a person with whom the Complainant shares a child in common. Domestic violence also includes a crime of violence against a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under domestic or family violence laws of the Commonwealth of Pennsylvania, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the Commonwealth of Pennsylvania. Includes physically, sexually, and/or psychologically abusive behavior that arises in the form of a direct violent act, or indirectly as acts that expressly or implicitly threaten violence. Domestic violence also occurs when one partner attempts to maintain power and control over the other through one or more forms of abuse, including sexual, physical, verbal, financial or emotional abuse.

**RETALIATION:** Retaliation includes, but is not limited to, intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because they have made a report or complaint of sexual misconduct or participated or refused to participate in criminal proceedings or University processes under this policy. Retaliation may be committed by any person or group of people, not just a Respondent or Complainant. It may be committed against the Complainant, Respondent, or person or group of people involved in the investigation and/or resolution of an allegation of sexual misconduct. Retaliation could occur before, during or after an investigation, University proceedings, and/or resolution.

## B. DEFINITIONS OF CONSENT AND OTHER KEY TERMS USED IN THIS POLICY

### **CONSENT, FORCE, COERCION, AND INCAPACITATION**

**CONSENT:** Consent is an explicitly communicated, mutual agreement in which all parties are capable of making a decision. Consent is the voluntary, informed, and freely given agreement to participate in agreed-upon sexual acts. Consent can be given by words or actions, as long as those words or actions create mutually understood clear permission regarding agreement to engage in the sexual activity. Consent cannot be obtained through physical force, intimidation, or coercion; where there is a reasonable belief of the threat of force; by taking advantage of another person's mental or physical incapacitation; or any other factor that would compromise someone's ability to exercise their own free will to choose whether to have sexual contact.

In evaluating whether consent has been freely sought or given, the University will consider the presence of any force, threat of force, or coercion; whether the Complainant had the capacity to give consent; and, whether the communication (through words and/or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with similar identities) as an agreement to engage in a particular sexual act.

The following further clarifies the meaning of consent:

- Consent to one form of sexual activity does not imply or constitute consent to engage in all or other forms of sexual activity.
- Consent may not be inferred from silence, passivity, lack of resistance or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.

- If at any time it is reasonably apparent that either party is hesitant, confused, or unsure, both parties should stop and discuss what, if any, consent is present before continuing sexual activity.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- Consent to an act with one person does not constitute consent to an act with any other person.
- Consent may be withdrawn or modified by either party at any time. Once withdrawal of consent has been clearly expressed through words or actions, sexual activity must cease.
- A person who is physically incapacitated from alcohol or other drug consumption (voluntarily or involuntarily), or is unconscious, unaware, or otherwise physically impaired, is considered unable to give consent. For example, a person who is asleep or passed out cannot give consent.
- Engagement in a previous or current intimate relationship does not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates consent to engage in sexual activity on every occasion.

**FORCE:** Force is the use or threat of physical violence or intimidation to overcome a person's freedom of will to decide whether to engage in sexual contact.

**COERCION:** Coercion includes the use of pressure and/or oppressive behavior, including expressed or implied threats of harm or severe and/or pervasive emotional intimidation, which (a) places a person in fear of immediate or future harm or physical injury of themselves or another person, or (b) causes a person to engage in unwelcome sexual activity in which they would not otherwise choose to engage. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**INCAPACITATION:** Incapacitation is the inability, temporarily or permanently, to give consent, because the person is mentally and/or physically impaired due to: illness; disability; voluntary or involuntary alcohol or other drug consumption; and/or being unconscious, asleep, or otherwise unaware that the sexual activity is occurring. Incapacitation means a person cannot understand the fact, nature, or extent of the sexual activity because they lack the physical and mental capacity to make informed, reasonable judgements about whether or not to engage in sexual activity.

For example, a person may be incapacitated if they demonstrate that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Additional indicators of incapacitation may include, but are not limited to, lack of control over physical movements (ie. clumsiness, difficulty walking), poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, emotional volatility, being unaware of circumstances or surroundings, being passed out, or inability to communicate for any reason.

### **OTHER KEY TERMS**

**ADVISOR OF CHOICE:** Parties participating as a Complainant or Respondent in this process have equal right to be accompanied by an advisor of choice to any grievance proceeding or related meeting under this Policy. Parties must be accompanied by an advisor to any hearing. If a party does not have an advisor of choice at the time of a hearing, the University will provide an advisor to that party, free of cost, for the purpose of conducting cross-examination. The advisor is not an advocate and any restrictions on advisor participation will be applied equally to both parties.

**COMPLAINANT:** The person who reports that they have been the subject of sexual misconduct as defined in this policy and/or under Title IX, as applicable.

**DEPUTY TITLE IX COORDINATOR:** Deputy Title IX Coordinators are appointed employees from various departments to function as a Title IX Coordinator, when needed, including receiving reports of alleged sexual misconduct, discussing with the Complainant and/or Respondent the availability of supportive measures, and providing information regarding the University's policies and procedures. The Deputy Title IX Coordinators are knowledgeable and trained in Federal and State laws that apply to matters of sexual misconduct, as well as University policy and procedure. The list of Deputy Title IX Coordinators can be found in the Title IX Notice of Non-Discrimination in Appendix B.

**DISCLOSURE:** Disclosure occurs when a person shares with another individual that they have experienced sexual misconduct. Making a disclosure is not the same as filing a formal complaint. (See Section V for more information).

**FORMAL COMPLAINT:** A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual misconduct against a Respondent and requesting that the University investigate the allegation of sexual misconduct.

**PREPONDERANCE OF THE EVIDENCE:** The standard of proof used by decision-makers in determining responsibility for reported policy violations. The standard of proof is met when the decision-maker determines that it is more likely than not that the Respondent is responsible for the alleged sexual misconduct.

**REPORT:** Any notice to the Title IX Coordinator or a Deputy Title IX Coordinator regarding an allegation of sexual misconduct. This includes, but is not limited to, email, telephone, in person or through an online reporting option. A report is not the same as filing a formal complaint. (See Section V for more information).

**REPORTING PERSON:** The person reporting that they or another person experienced sexual misconduct as defined in this policy. This person may also be the Complainant.

**RESPONDENT:** The person who is reported to have committed conduct that could constitute sexual misconduct.

**RESPONDENT RESOURCE COORDINATOR (RRC) TEAM:** The University has designated the RRC team to provide assistance to any student accused of sexual misconduct. The RRC may meet with the Respondent to assist with: accessing emotional support; connecting with on campus and community resources, outlining available supportive measures; and assisting with other questions and concerns to address the matter under this policy. Members of the RRC Team are available 9 am to 5 pm, Monday-Friday and can be reached by emailing [respondentresource@villanova.edu](mailto:respondentresource@villanova.edu) or calling 610-519-8807. Members of the RRC Team do not act as legal counsel and do not serve as advisors in University proceedings.

**RESPONSIBLE EMPLOYEE:** All employees (except for confidential resources listed in Section IV.A) are Responsible Employees, meaning they are required to report any and all incidents of sexual misconduct to the Title IX Coordinator or a Deputy Title IX Coordinator (as outlined in the Title IX Notice contained in Appendix B), regardless of where or when the incident occurred and whether or not the Responsible Employee witnessed the incident or learned of it through the Complainant, Respondent or a third party.

**SAFETY ALERT:** A Safety Alert is a campus-wide warning intended to provide members of the University community with timely information about certain serious crimes. Safety Alerts are part of the University's compliance responsibilities to issue timely warnings under the Clery Act, a federal campus crime disclosure law. Safety Alerts do not contain identifying information about the reporting person.

**SEXUAL ASSAULT RESOURCE COORDINATOR (SARC) TEAM:** The University has designated the SARC team to provide assistance to any student who has experienced sexual misconduct. The SARC may meet with the person to assist with:



obtaining information about safety; accessing emotional support; connecting with on campus and community resources; outlining available supportive measures; and assisting with other questions and concerns to address the matter under this policy. Members of the SARC Team are available 9 am to 5 pm, Monday-Friday, and can be reached by emailing [SARC@villanova.edu](mailto:SARC@villanova.edu) or calling 484-343-6028. [Members of the SARC Team do not act as legal counsel and do not serve as advisors in University proceedings.](#)

**SUPPORTIVE MEASURES:** Following a report of sexual misconduct, the University will offer the Complainant and/or Respondent non-disciplinary, non-punitive individualized services as appropriate, and as reasonably available to the involved parties, without cost. Supportive measures are designed to restore or preserve equal access to the University's education program or activities, including employment, without unreasonably burdening the other party, including measures designed to protect the safety of all parties and the University's employment and educational environment and/or deter further acts of misconduct. Supportive measures cannot fundamentally alter the University's policies. More information about Supportive Measures can be found below.

**TITLE IX CASE MANAGER:** The Title IX Case Manager is a University resource who serves as a neutral main point of contact for those involved in sexual misconduct reports. The Title IX Case Manager is responsible for receiving reports from community members and ensuring that all parties receive adequate information, support, and resources. The Title IX Case Manager also serves as a Senior Deputy Title IX Coordinator.

**TITLE IX COORDINATOR:** The Title IX Coordinator oversees the University's centralized review, investigation, and resolution process for matters arising under this policy and coordinates the University's compliance with Title IX, its implementing regulations, and other applicable federal and state laws. The Title IX Coordinator is a University resource who is responsible for the prompt and equitable resolution of all reports, investigations, and informal and formal resolutions under this policy. The Title IX Coordinator maintains records consistent with applicable law and University policy to track any trends or patterns of sexual misconduct, evaluate the scope of the issue and formulate appropriate campus wide responses. The Title IX Coordinator coordinates supportive measures, ensures that the investigative and resolution processes are neutral and impartial, and acts to assure that employees or external professionals involved in the Title IX processes are free from conflicts of interest and/or potential bias. Concerns of bias or a potential conflict of interest by any other administrator involved in the resolution process should be raised with the Title IX Coordinator.

See Appendix B for the complete Title IX Notice of Non-Discrimination.

**TITLE IX INVESTIGATOR:** The Title IX Coordinator will assign an experienced and trained investigator to complete an administrative fact-finding investigation of the formal complaint. The investigator may be the designated Title IX Investigator, another University employee, or an external professional, as determined by the Title IX Coordinator.

#### IV. CONFIDENTIALITY AND PRIVACY CONSIDERATIONS

The University is committed to protecting the privacy of all people involved in matters falling under this Policy. All employees who are involved in the University's response to reports of sexual misconduct receive specific training and guidance about safeguarding private information in accordance with state and federal law. It is important to understand that privacy and confidentiality have distinct meanings under this Policy.

Privacy means that information related to a report of sexual misconduct will be shared only with those University officials with a designated interest in order to assist in the assessment, investigation and/or resolution of the matter, unless further

disclosure is required by state and federal law or necessary due to a health and/or safety emergency. The University will make reasonable efforts to investigate and address reports of sexual misconduct under this policy, and information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation. In all such proceedings, the University will maintain the privacy of the parties to the extent reasonably possible. Under no circumstances will the University release the name of a Complainant to the general public without the express consent of the Complainant.

Confidentiality refers to the level of protection that must be applied to legally protected or privileged relationships, including professional mental health counselors, medical professionals, ordained clergy/pastoral counselors and rape crisis counselors (Confidential Resources). Information shared by an individual with a Confidential Resource, whether on campus or in the community, and which is intended as a confidential communication, cannot be revealed to any other individual without express permission of the individual seeking services, unless there is an imminent threat of harm to self or others, or the conduct involves suspected abuse of a minor. When a report involves suspected abuse of a minor under the age of 18, these Confidential Resources are required by state law to notify child protective services and/or local law enforcement. Similarly, an individual's medical and counseling records are confidential and cannot be released without the individual's written permission or unless permitted or required consistent with any applicable ethical or legal obligations.

#### **A. CONFIDENTIAL RESOURCES**

Any community member may seek advice and counseling confidentially, including about sexual misconduct, by speaking to these University employees who are designated as Confidential Resources:

1. Counselors/therapists at the University Counseling Center;
2. Priests acting in a pastoral capacity
3. Faculty Ombuds (for faculty use only)

Additional confidential resources include:

1. Counselors available to students through UWill telehealth counseling
2. Counselors available to employees through the Employee Assistance Program (EAP)
3. Counselors and advocates with Delaware County Victim Assistance Center, Domestic Abuse Project of Delaware County, and other local community resources outlined in Appendix A

#### **B. PRIVATE, NON-CONFIDENTIAL RESOURCES**

These resources are not Confidential Resources but are private resources that the University has designated to provide assistance and support to any student who has experienced sexual misconduct. Each resource's unique reporting responsibilities is outlined below:

#### **Nurses and Nurse Practitioners at the Student Health Center**

The nurses and nurse practitioners at the Student Health Center are Responsible Employees and Campus Security Authorities (CSAs) required to share disclosures of sexual misconduct with the Title IX Coordinator, including the name of the Respondent (if shared), the name of the reporting person (if they grant permission or their identity is needed to conduct a risk assessment), all details shared regarding the incident, as well as other information needed to assess whether an on-going threat is present in order to evaluate whether a timely warning should be issued.

#### **Sexual Assault Resource Coordinator (SARC) Team**

The members of the Sexual Assault Resource Coordinator Team are Responsible Employees and required to share disclosures of sexual misconduct and all known information with the Title IX Coordinator, including the name of the Respondent (if shared), the name of the reporting person, all details shared regarding the incident, as well as other information.

#### **C. ALL OTHER UNIVERSITY EMPLOYEES**

As noted in Section IV.C, all employees (except for Confidential Resources listed above) are considered Responsible Employees and are required to share disclosures of sexual misconduct with the Title IX Coordinator or Deputy Title IX Coordinator (as outlined in the Title IX Notice of Non-Discrimination contained in Appendix B), regardless of whether the Responsible Employee witnessed the incident or learned of it through the Complainant, Respondent or a third party. These reports to the Title IX Coordinator will include the name of the reporting person, name of the Respondent (if shared), all details shared regarding the incident, as well as other information needed to assess whether an on-going threat is present to evaluate whether a timely warning should be issued.

Employees are not required to report information disclosed at public awareness events (e.g., "Take Back the Night," candlelight vigils, survivor listening circles, protests, or other public forums in which community members may disclose sexual misconduct); or during an individual's participation as a subject in an Institutional Review Board-approved human subjects research protocol (IRB research). The University may provide information about Title IX and available campus and community resources and support at public awareness events. In addition, Institutional Review Boards may, in appropriate cases, require researchers to provide such information to all subjects of IRB research.

#### **V. REPORTING AN INCIDENT OF SEXUAL MISCONDUCT**

The University is committed to a safe environment for all students and employees. Reports of sexual misconduct provide the University with the opportunity to assess for broader remedial action including increased monitoring of campus locations, additional education and prevention efforts, and climate assessments.

The University will respond to all reports in an integrated, consistent manner that treats each person with dignity and respect and will take prompt responsive action to end any reported sexual misconduct, prevent its recurrence, and address its effects.

Villanova is committed to supporting the rights of a reporting person or Complainant to make an informed choice among options and services available both on and off campus. Complainants have the option to, and are encouraged to, notify law enforcement. This includes the simultaneous filing of both a criminal complaint and a University formal complaint under this policy.

### **AMNESTY FOR COMPLAINANTS AND WITNESSES**

Consistent with the University's Mission and belief that all members have an obligation to promote and protect the health, safety, and welfare of our community, the University strongly encourages community members to report incidents of sexual misconduct so that those affected can receive support and resources. A party who reports such misconduct in good faith, either as a Complainant or a third-party witness, will not be subject to disciplinary action for policy violations such as underage consumption of alcohol or drug use related to the incident. The University may, however, initiate an educational discussion with that individual about the use of alcohol or other drugs and their impact, or pursue other educational remedies. Amnesty may not apply to more serious allegations such as physical abuse or drug distribution.

Submission of a good faith complaint, concern, or report under this Policy will not affect a Complainant's or third-party witness' employment, grades, academic standing, or work assignments. However, a person found to have made a knowingly false complaint or report, or to have knowingly and willingly given false information during an investigation, will be subject to disciplinary action. A good faith complaint that is not substantiated by a grievances process does not constitute a false report.

#### **A. MAKING A REPORT**

Any person may report an incident of sexual misconduct and has several reporting options. Complaints may be pursued through the criminal process, through the University grievance process, through both, or through none.

##### **1. REPORTING TO LAW ENFORCEMENT**

To initiate a criminal complaint through law enforcement, the location of the incident will determine which police department will investigate. For on-campus incidents, the Villanova University Department of Public Safety is the law enforcement agency with jurisdiction to investigate except in cases where the identity of the suspect is unknown to the Complainant. In those cases, the Radnor Township Police Department conducts the criminal investigation. The Department of Public Safety employs sworn officers who are trained criminal investigators who can collect evidence, conduct an investigation, and initiate a criminal prosecution.

When contacting the Department of Public Safety, a Complainant may seek a criminal investigation, an administrative investigation, or both. A Complainant is not required to consent to a criminal investigation in order to initiate a University formal complaint. In cases involving both criminal and University investigations, information can be shared between investigators consistent with federal and state law. A Complainant may always choose to participate, or withdraw their participation, from either investigative process at any time.

For off-campus incidents, the University can assist Complainants in identifying and reporting to the appropriate law enforcement agency with jurisdiction. Notifying municipal law enforcement will generally result in the Complainant, and in some cases the Respondent, being contacted by a municipal police officer. The police will determine if a criminal investigation will proceed and if the case will be referred for prosecution. Unless there are compelling circumstances, the University will typically not file an independent police report without the consent of the Complainant.

The following list includes contact information for Villanova University’s Department of Public Safety, and the police departments in proximity to the University and/or that have township student-approved housing in their respective jurisdictions:

<b>Law Enforcement</b>	<b>911</b>
<b>Villanova University Department of Public Safety</b>	610-519-5800
<b>Radnor Police Department</b>	610-688-0503
<b>Lower Merion Police Department</b>	610-649-1000
<b>Conshohocken Police Department</b>	610-828-4032/4033
<b>Upper Merion Police Department</b>	610-265-3232
<b>Tredyffrin Police Department</b>	610-647-1440
<b>Philadelphia Police Department</b>	610-685-1158

## 2. REPORTING TO THE UNIVERSITY

To initiate an administrative investigation into a complaint of sexual misconduct under this University Policy (whether or not the alleged conduct also is prohibited under Title IX, the Code of Student Conduct and/or employment policies), a reporting person should contact the Title IX Coordinator, a Deputy Title IX Coordinator or the Department of Public Safety as follows:

<b>Ms. Ryan Rost, Title IX Coordinator</b> 207 Tolentine Hall	610-519-8805 <a href="mailto:ryan.rost@villanova.edu">ryan.rost@villanova.edu</a>
<b>Ms. Shannon Barnett, Title IX Case Manager &amp; Senior Deputy Title IX Coordinator</b> 207 Tolentine Hall	610-519-8804 <a href="mailto:shannon.barnett@villanova.edu">shannon.barnett@villanova.edu</a>
<b>Ms. Kim Kearney, Title IX Investigator &amp; Deputy Title IX Coordinator</b> Garey Hall	484-343-6926 <a href="mailto:kim.kearney@villanova.edu">kim.kearney@villanova.edu</a>
<b>Sydney Scheiner, Assistant Dean of Students for Conduct Resolution</b> 213 Dougherty Hall	610-519-4200 <a href="mailto:sydney.scheiner@villanova.edu">sydney.scheiner@villanova.edu</a>
<b>Mr. Albert Baladez, Senior Director of Human Resources &amp; Deputy Title IX Coordinator</b> 789 Lancaster Avenue	610-519-4238 <a href="mailto:albert.baladez@villanova.edu">albert.baladez@villanova.edu</a>
<b>Ms. Lynn Tighe, Senior Associate Athletic Director for Administration &amp; Deputy Title IX Coordinator for Athletics</b> Field House	610-519-4121 <a href="mailto:lynn.tighe@villanova.edu">lynn.tighe@villanova.edu</a>

<b>Department of Public Safety</b>	610-519-4444
Garey Hall	(24/7 emergency)
<b>Note: (Reports to the Public Safety emergency number will prompt a police response by on-duty personnel)</b>	610-519-5800
	(24/7 non-emergency)

<b><u>Any person seeking information and options on how to proceed with making a report may also contact:</u></b>	
<b>Sexual Assault Resource Coordinator Team</b>	484-343-6028 (9 am-5 pm, Monday-Friday)
<b>Delaware County Victim Assistance Center</b>	610-566-4342 (24/7, Confidential)
<b>Domestic Abuse Project of Delaware County</b>	610-565-4590 (24/7, Confidential)

### 3. ANONYMOUS REPORTING

Although the University encourages a Complainant to talk with someone directly, the University does provide an anonymous online reporting option, [www.villanova.ethicspoint.com](http://www.villanova.ethicspoint.com) and an anonymous phone reporting option at (855-236-1443). All anonymous reports of sexual misconduct submitted through these options will be referred to the Title IX Coordinator and will prompt an initial investigation. However, the University’s ability to respond effectively may be limited by the level of information provided and/or the anonymity of the complaint.

#### A. MEDICAL TREATMENT AND PRESERVATION OF EVIDENCE

The University encourages people who have experienced sexual misconduct to seek immediate medical treatment and to make a prompt report to law enforcement in order to address immediate safety and health concerns, allow for the preservation of evidence, and initiate a prompt investigative and remedial response.

A medical provider can provide emergency and/or follow-up medical services, and meet three goals: first, to diagnose and treat the full extent of any injury or physical effect, second, to provide preventative health care, and third, to properly collect and preserve evidence. Following an incident of sexual assault, evidence is best preserved for proof of a criminal offense within 96 hours of the assault. In the event of a report immediately following an incident of sexual assault, a Complainant is encouraged to seek medical attention as soon as possible, and even before any showering, bathing, douching, brushing of teeth, drinking, eating, or changing of clothes. Similarly, any clothing, towels or bedding should remain untouched pending collection by law enforcement. Whether or not a person has chosen how to proceed at the time of the medical examination, taking the step to gather evidence will preserve the full range of options to seek resolution through the pursuit of a criminal investigation or the University’s complaint processes.

Please note that under Pennsylvania law, a medical provider is required to notify law enforcement of a reported sexual assault under most circumstances. Although the medical provider will provide information to law enforcement, and the University encourages the Complainant to report the incident to law enforcement (it is often easier to relay the incident once to several people than repeatedly to different constituents), the Complainant may always, at any time, decline to speak with a law enforcement officer and decide on the extent of their participation in a criminal prosecution.

Contact information for medical care is as follows and more detailed information can be found in Appendix A of this Policy:

<b>Villanova Student Health Center</b>	610-519-4070
<b>Bryn Mawr Hospital</b>	484- 337-3000

**Lankenau Medical Center**

484-476-2000

**Philadelphia Sexual Assault Response Center**

215-425-1625

When the incident is reported to a campus resource, the University will help the Complainant get to a safe place and seek immediate medical attention (including transportation).

### C. SUPPORTIVE MEASURES

Following a report of sexual misconduct, the University will offer and provide non-disciplinary, non-punitive individualized services as appropriate and as reasonably available to involved parties. Supportive measures are designed to: protect the safety of all parties and campus community; deter further acts of misconduct; and restore or preserve equal access to Villanova's education program or activity without unreasonably burdening the other party. Supportive measures are available to a Complainant or Respondent without fee or charge regardless of whether a formal complaint is filed or a report to the police department is made.

The University may impose (and a person may request) additional supportive measures that can be tailored to achieve the goals of this Policy, even if not specifically listed below, so long as they do not have the effect of fundamentally altering University policies. The range of supportive measures includes, but is not limited to:

1. **No Contact Order:** The Complainant or Respondent may request, or the University may impose, communication and contact restrictions to prevent further potentially harmful interaction. These communication and contact restrictions generally preclude in person, telephone, electronic or third-party communications.

A person may also seek a [protection from abuse/anti-harassment order](#) from the local court of the Commonwealth of Pennsylvania. This is a civil proceeding independent of the University. If a court order is issued the University will, to the extent possible, assist the protected person in benefitting from the restrictions imposed by the court.

2. **Campus Safety Escort:** The University may provide campus safety escorts to involved parties. The University will endeavor to honor reasonable requests for campus safety escorts.
3. **Academic, Employment, Living or Transportation Arrangements:** Complainants and Respondents may request reasonable changes in their own academic, employment, living or transportation arrangements after a report of sexual misconduct. Upon request, the University will inform the Complainant or Respondent of the options and will grant the request if those changes are reasonably available.

In some instances, the University may initiate changes in a party's academic, employment or living arrangements based on its own determination that such a supportive measure is necessary and will not unreasonably burden the other party.

**Note:** Supportive measures are distinct from reasonable accommodations for a disability. Students requesting supportive academic or living measures related to Title IX or sexual misconduct matters which involve a disability must register their disability with the University's Learning Support Services Office or Office of Disability Services and request disability accommodations through those offices' established policies and procedures. Similarly, employees requesting supportive measures related to Title IX or sexual misconduct matters which involve a disability must register their disability with Human Resources and request workplace accommodations through that office's established policies and procedures.

4. **Emotional or Mental Health:** The University will assist in providing counseling services through the University Counseling Center (for students), UWill Telehealth Counseling (for students), Health Advocate (for employees), or will assist in providing a referral to off-campus support agencies.
5. **Emergency Removal and Administrative Leave:** To provide for the safety of any person or the broader campus community, or for any other lawful purpose, the University may remove the Respondent from a Villanova education program or activity on an emergency basis. The University will undertake an individualized safety and risk analysis to determine whether an immediate threat to the physical health or safety of any community member or other individual arising from the allegation of sexual misconduct justifies the removal. The University will provide the Respondent with written notice of any removal and an opportunity to challenge the removal. During any challenge, the Respondent will remain off-campus and comply with the notice of removal. The Respondent will have three (3) business days to submit a written challenge to the safety and risk analysis.
  - **Undergraduate and Graduate Student Respondents:** Must submit their written challenge to the Dean of Students or their designee
  - **Law Student Respondents:** Must submit their written challenge to Vice Dean or their designee
  - **Non-Student Faculty and Staff Respondents:** Must submit their written challenge to the Associate Vice President for Human Resources or their designee

Following a report of sexual misconduct, the University may place a non-student employee Respondent on administrative leave, with or without pay.

The Title IX Coordinator or Deputy Title IX Coordinator will document each report or request for assistance, including requests for supportive measures, as well as the response to any such report or request. The records will be kept confidential to the extent required or permitted by law.

#### D. WHAT HAPPENS FOLLOWING A DISCLOSURE OR REPORT

##### 1. PRELIMINARY INQUIRY AND INTAKE MEETING

When the Title IX Coordinator receives a report of sexual misconduct from a reporting person or Complainant, the Title IX Coordinator or [designee](#) will engage in a preliminary inquiry to understand the nature of the report and assess whether the alleged conduct falls under this Policy. In most instances, the Title IX Coordinator or designee will contact the Complainant to schedule an intake meeting. During the intake meeting, the Title IX Coordinator or designee will gather supplemental information, offer and discuss the availability of supportive measures, provide information about on- and off-campus resources, and explain the process for filing a formal complaint if the alleged conduct falls under the Sexual Misconduct Policy. Centralized outreach through the Title IX Coordinator or designee ensures that all community members have access to information about the University's resources, policies, and procedural options for resolving the report.

At the conclusion of the preliminary inquiry, the following resolution options are possible:

- No further action under the Sexual Misconduct Policy – which may involve referring the matter to the appropriate office for review under another University policy
- Supportive measures only – regardless of whether a formal complaint is filed
- Formal Resolution – following a formal complaint by the Complainant or Title IX Coordinator
- Informal Resolution – following a formal complaint by the Complainant or Title IX Coordinator

The University will consider the Complainant's wishes with respect to supportive measures and seek to respect a Complainant's autonomy in making the determination regarding how to proceed. Supportive measures are available to a Complainant with or without the filing of a formal complaint.



## **CLERY ACT COMPLIANCE - TIMELY WARNING NOTICES (SAFETY ALERTS)**

The Title IX Coordinator or Deputy Title IX Coordinator will report incidents occurring on or near campus to the University's Department of Public Safety as part of the University's compliance with the Clery Act. The Clery Act requires colleges and universities to gather and share statistics of serious crimes reported on and near campus, including incidents reported under this Policy. Reports to the Department of Public Safety will typically include the general nature of the incident, date, time of day, and location, as well as other information needed to assess whether an on-going threat is present that would require that the University issue a timely warning (or "Safety Alert" – see below). Incidents reported to the Department of Public Safety are also used to compile crime statistics that are distributed to the University community in the [Annual Security Report](#) as required by the Clery Act.

A Timely Warning or "Safety Alert" is a way for the University to provide timely notification to members of the University community about reports of serious crimes that have occurred on or within the [Clery](#) geography of Villanova University (on campus or non-campus property or public property) where it is determined that the incident may pose a serious or ongoing threat to members of the University community. The determination of alerts for reports of sexual violence, dating violence, domestic violence, and stalking are considered on a case-by-case basis and depend on several factors. These factors include: nature of the incident; continuing danger to the campus community; possible risk of compromising law enforcement efforts to investigate; when and where the incident occurred; when the incident was reported; and the amount of information known by the Department of Public Safety. Safety Alerts do not contain any identifying information about the reporting person or Complainant. More information on Safety Alerts can be found on the [Safety Alert](#) page.

### **2. HOW TO FILE A FORMAL COMPLAINT**

Making a report is different from filing a formal complaint. A formal complaint is a written request that the University conduct an investigation into a report of sexual misconduct. A formal complaint can be filed by the Complainant in person, by mail, email or through other reporting means. The Title IX Coordinator can provide assistance in initiating a formal complaint, which must include a written description of the facts alleged requesting the University investigate the matter, and the Complainant's physical or digital signature. As outlined below, in certain circumstances where a Complainant does not wish to or is unable to file a formal complaint, one may be filed by the Title IX Coordinator to address the safety of the broader educational community. If a formal complaint is filed, an investigation will begin and the parties will be provided with options for informal and formal resolution.

#### **a. NOTICE OF ALLEGATIONS**

When a formal complaint is made, a written Notice of Allegations will be sent to the Complainant(s) and Respondent(s). Such notice will occur as soon as practicable after Villanova receives a formal complaint of the allegations, absent extenuating circumstances. Villanova will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

This written notice will include the following:

- Notice of Villanova's Grievance Process, including the formal and informal resolution process.
- Notice of the allegations potentially constituting violations of this Policy, and sufficient details to the extent known at the time the Notice is issued, such as the identities of the parties involved in the incident, including the Complainant; the conduct allegedly constituting sexual misconduct; and the date and location of the alleged incident.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that each party may have an advisor of their choice throughout the process. The advisor may, but is not required to be, an attorney. If the party does not have an advisor at the time of any live hearing, the University will provide an advisor to conduct cross-examination on the party's behalf.
- A statement about the importance of preserving any potentially relevant evidence.
- A prohibition against making false statements during any formal or informal resolution process.

- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does and does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.

If the investigation reveals the existence of additional potential policy violations, the University will issue a supplemental Notice of Allegations. This initial notice, and any supplemental notices, will be provided to the parties in advance of any interview or meeting with the investigator to allow the party sufficient time to prepare a response.

### **3. IF A COMPLAINANT CHOOSES NOT TO FILE A FORMAL COMPLAINT**

If a Complainant chooses not to file a formal complaint, supportive measures will remain available to the Complainant. In such cases, the University's ability to meaningfully respond to and address the incident may be limited. The University will consider the Complainant's choice not to file a formal complaint, however, the University must weigh the Complainant's choice against its obligation to provide a safe, non-discriminatory environment for all students and employees, including the Complainant. Although rare, there may be times when the University cannot honor a Complainant's request and the Title IX Coordinator may determine that filing a formal complaint is necessary in order to provide a safe, non-discriminatory environment for all community members.

When weighing such a request by the Complainant, the following range of factors will be considered, including but not limited to, the following:

- The risk that the Respondent will commit additional acts of sexual or other violence, such as:
  - a pattern of alleged sexual misconduct by the same Respondent;
  - whether the Respondent has a history of arrests or records from a prior school indicating a history of sexual and/or physical violence;
  - whether the Respondent threatened further sexual violence or other violence against the Complainant or others;
  - whether the sexual violence was committed by multiple perpetrators;
- whether the Complainant's allegations involved force, use of weapons or similar factors;
- whether the Complainant is a minor;
- whether the University possesses other means to obtain relevant evidence of the alleged sexual violence (e.g., security cameras, eye-witnesses or, physical evidence);
- whether the Complainant's report reveals a pattern of perpetration (e.g., alcohol or drug facilitated sexual violence) at a given location or by a particular group.

If none of these factors is present, the University will likely be able to respect the Complainant's request to not file a formal complaint.

However, the presence of one or more of these factors could lead the Title IX Coordinator to file a formal complaint allowing the University to investigate and, if appropriate, pursue the grievance process and/or involve the law enforcement agency with jurisdiction. In such cases, the University will inform the Complainant and will share the University's reasoning for proceeding with a formal complaint. The Complainant may still decide whether and how much they want to be involved in any next steps. The University will only share information with those needing to know in order to conduct the investigation and facilitate the University's response to the report of sexual misconduct.

### **4. CONSOLIDATION OF COMPLAINTS**

The University may consolidate formal complaints alleging sexual misconduct 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 misconduct arise out of the same facts or circumstances.

In addition, where conduct involves the potential violation of both this Policy and another University policy, the University may choose to investigate other potential misconduct under this Policy, provided that it does not unduly delay a prompt or equitable resolution of the report or formal complaint.

**5. COUNTERCLAIMS**

The University permits the filing of counterclaims. Counterclaims will be processed using the appropriate grievance procedures under this Policy. Depending on the timing of when a counterclaim is filed and the allegations raised, the investigation of such claims may take place at the same time as the underlying complaint, or after resolution of the underlying complaint, at the discretion of the Title IX Coordinator.

Villanova is obligated to ensure that the grievance process is not abused for retaliatory purposes. Counterclaims made solely for retaliatory purposes will not be permitted and may constitute a violation of this Policy. This does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated or no policy violation is found to have occurred.

**6. DISMISSALS OF FORMAL COMPLAINTS**

In cases involving conduct that falls under Title IX, the Title IX Coordinator **must** dismiss a formal complaint brought under this Policy or any specific allegation(s) raised within that formal complaint, at any time during the investigation or hearing if the conduct alleged: (a), even if substantiated, would not constitute prohibited conduct as defined in the Title IX regulations; (b) did not occur within the University’s education program or activity; or (c) did not occur against a person in the United States. Conduct that does not constitute prohibited conduct under Title IX as defined in the Federal regulations may still constitute misconduct under this Policy or other University policies, in which case, the University may proceed under those applicable policies and procedures.

The Title IX Coordinator **may** dismiss a formal complaint brought under this Policy or any specific allegation(s) raised within that formal complaint, at any time during the investigation or hearing if: it alleges conduct that does not fall under this Policy; the Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations raised in the formal complaint; the Respondent is no longer enrolled at or employed by Villanova; or specific circumstances prevent Villanova from gathering evidence sufficient to reach a determination regarding the formal complaint or allegations within the formal complaint.

In such cases, the Title IX Coordinator will provide simultaneous written notification to the parties that the formal complaint or specific allegations within that complaint, are being dismissed under this Policy and provide the basis for that decision. However, if the alleged conduct violates other University policies, or if specific allegations under this Policy remain are not dismissed, information regarding those policies and procedures will be provided to the parties and the investigation may continue on the remaining allegations.

Each party may appeal the dismissal of allegations and/or the formal complaint by submitting a written appeal within five (5) calendar days of being notified of the decision regarding dismissal. If a party appeals, Villanova will as soon as practicable notify the other party in writing of the appeal and provide the non-appealing party access to review the appeal. The non-appealing party will have three (3) calendar days to respond, and a copy of the response will be provided to the appealing party. No further appeal submissions will be accepted unless specifically requested by the decision-maker for the appeal. Appeals of dismissals will be decided as outlined below as determined by the role of the Respondent. The individual designated to hear the appeal will be free of conflict and bias and will not serve as the investigator, Title IX Coordinator, or hearing decision-maker in the same matter. The outcome of the appeal will be provided in writing simultaneously to both parties and include the rationale for the decision.

<b>Role of Respondent</b>	<b>Appeal decided by</b>
Students (non-Law)	Dean of Students or designee
Law Students	Vice Dean or designee
Staff members	Associate Vice President for Human Resources or designee

Faculty members and full-time administrators with faculty appointments	Provost or designee
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**E. WHAT HAPPENS FOLLOWING A FORMAL COMPLAINT**

**F. TIME FRAME FOR RESOLUTION**

The time frame for resolution begins with the filing of a formal complaint. Generally speaking, the University will complete the administrative investigation and resolution of all formal complaints within a reasonably prompt manner, and no longer than ninety (90) business days after the filing of the formal complaint, absent extenuating circumstances. Periodic updates as to the status of the review or investigation may be provided to both the Complainant and Respondent.

Each case is unique, and the timing of the investigative process will be impacted by factors such as the complexity of the investigation, the scope of the allegation(s) including any supplemental allegations raised during the investigation, the parties’ schedules and availability, the number of witnesses or volume of documentary evidence, arranging reasonable accommodations for qualified disabled individuals participating in the process, the academic calendar and any concurrent criminal investigation. Although cooperation with law enforcement may require Villanova to temporarily suspend its administrative investigation, the University will promptly resume its sexual misconduct investigation as soon as it is notified by law enforcement that the agency has completed the evidence gathering process. Villanova will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide supportive measures for the involved parties. In the event that the investigation and resolution require an extension for good cause, the University will notify all parties of the extension and the reason for the extension and best efforts will be made to complete the process in a timely manner. In no case will these time frames delay University-provided support services, resources, or other measures.

**2. ADVISOR OF CHOICE**

Parties participating as a Complainant or Respondent in this process have equal rights to be accompanied by an advisor of choice to any grievance proceeding or related meetings under this Policy. The advisor may be any person, including an attorney, but need not be an attorney. The advisor is not an advocate and any restrictions on advisor participation will be applied equally to both parties. An advisor is entitled to review all information gathered in the investigation that is directly related to the allegations (as part of evidence review), to access to the investigation report, and to cross-examine the other party and all witnesses during the hearing.

A party may decline to use an advisor for all stages of the formal or informal resolution process, with the exception of the hearing, where any questioning of the other party must be conducted by the party’s advisor. If a party does not have an advisor for the hearing, the University will provide an advisor, free of charge, to the party for the sole purpose of facilitating questioning on the party’s behalf of other parties and witnesses.

A party’s advisor of choice may provide support and advice to their advisee at any meeting and/or proceeding. With the exception of the advisor’s cross-examination during a hearing, advisors may not speak on behalf of their advisee or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings. The advisor will offer no testimonial evidence or answer questions on behalf of their advisee; the advisor may not conduct direct examination of their advisee; and the advisor may not present opening or closing remarks. The advisor, and not the Complainant or Respondent, will conduct cross-examination of any witness in compliance with the hearing procedures and the University’s policies and procedures.

Advisors may ask to briefly suspend any meetings, interviews, or hearings to provide consultation; the University retains the discretion to deny such requests if they are excessive, burdensome, or otherwise unreasonable. The University may remove or dismiss advisors who do not abide by the restrictions on their participation or who are otherwise disruptive. An advisor may be asked to meet with the Title IX Coordinator in advance of any meetings or proceedings to receive and acknowledge the University’s overview of the Policy, expectations of the role, privacy considerations, and appropriate decorum.

Advisors should plan to make themselves reasonably available for all meetings and proceedings. Villanova will not intentionally schedule meetings or hearings on dates where the advisors for all parties are not available, provided that the advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules. Villanova's obligations to investigate and adjudicate in a prompt timeframe applies to matters governed under this Policy and the University cannot agree to extensive delays solely to accommodate the schedule of an advisor. Villanova will not unreasonably delay a meeting or hearing under this policy due to the unavailability of an advisor and may offer the party the opportunity to obtain a different advisor or utilize one provided by Villanova. An advisor is entitled to review all information gathered in the investigation that is directly related to the allegations during the designated evidence review periods, to access the investigative report during the designated report review period, and to cross-examine the other party and all witnesses during the hearing.

### **3. INVESTIGATIONS UNDER THIS POLICY**

Administrative investigations of all sexual misconduct involving a student: The Title IX Investigator or their designee will typically oversee the administrative investigation of all sexual misconduct reports where the Respondent is a current student.

Administrative investigations of sexual misconduct involving a University employee: Human Resources and/or the Title IX Investigator or their designee will typically oversee the investigation of all reports of sexual misconduct involving a Respondent who is a current University employee (faculty or staff).

For administrative (non-criminal) investigations, the University will provide to a party whose participation is invited or expected, written notice of the date, time, location, known participants and purpose of all hearings, investigative interviews, or other meetings, with reasonably sufficient time for that party to prepare to participate.

Normally, investigations will include live interviews with the parties and witnesses, and collecting relevant documentation, electronic, or other available evidence. Students, faculty and staff deemed relevant to the matter may be asked to participate in an investigation, and when asked, they are expected to find time to meet and share information with the investigator. The investigator may receive any information presented by the parties, but the investigator, not the parties, is responsible for gathering relevant evidence. The parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution. In the event that a party declines to voluntarily provide material information, the University's ability to conduct a prompt, thorough, and equitable investigation may be impacted. Subject to the prohibition on retaliation, the University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

Evidence obtained through a criminal investigation, including the collection of physical and/or forensic evidence, could be shared with the administrative investigator and included in the Investigative Report as outlined below.

#### **WITNESSES**

The Complainant and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications, and other evidence, if available. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, or related matters.

Witnesses may also be offered to provide subject matter expert information. If parties wish to provide expert testimony or evidence, they are solely responsible for securing attendance of any expert witness at a hearing, and for paying the costs or fees associated with any expert report or testimony.

Where witnesses are interviewed as part of the investigation, the name of the witness and the information gathered in the interviews will be shared with the parties during the evidence review period and report review period. The investigator has the discretion to determine which of those potential witnesses, or other persons, may have relevant information about the alleged conduct.

## **OBLIGATION TO PROVIDE TRUTHFUL INFORMATION**

All Villanova University community members are expected to provide truthful information in any report or proceeding under the Policy and are further expected to cooperate with the University in any such proceeding. Knowingly submitting or providing false or misleading information in bad faith in connection with an incident of sexual misconduct is prohibited and subject to disciplinary action. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated or no policy violation is found to have occurred.

## **EVIDENTIARY CONSIDERATIONS**

Evidence is relevant if it makes a material fact more or less probable than it would be without the evidence. In general, the investigator and decision-maker have the discretion to determine the relevance and probative value of information proffered or received.

In addition, the investigator and decision-maker have the discretion to evaluate the relevance of the following evidentiary considerations:

**Medical or Counseling Records:** The investigator will 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. If a person voluntarily shares medical or counseling records with the investigator for consideration in the investigation, they must sign a written consent that acknowledges that relevant information from the medical or counseling records must be shared with the other party and their advisor to ensure the other party has notice of that information and an opportunity to respond.

**Prior Sexual History of the Complainant:** A Complainant's prior sexual history is generally not relevant, although evidence may be admitted if determined relevant in two circumstances: (1) where the evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and is offered to prove consent (although the mere fact of a current or prior dating or sexual relationship between the parties, by itself, is not sufficient to constitute consent); or (2) to show that someone other than Respondent committed the alleged conduct.

Any party seeking to introduce information about a Complainant's prior sexual history should bring this information to the attention of the investigator at the earliest opportunity. Where a sufficient informational foundation exists, the investigator will assess the relevance of the information and determine if it is appropriate for inclusion in the investigative report.

## **4. EVIDENCE REVIEW**

Prior to the conclusion of the administrative investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through 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. Both parties will have the opportunity to meaningfully respond to the evidence. Parties and advisors are not permitted to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the University's grievance process.

Parties are not prohibited from discussing the allegations under investigation with others including with a caregiver, friend, other source of emotional support, an advocacy organization, or their advisor; however, parties may not discuss or disseminate the allegations or information obtained through the evidence review in a manner that constitutes retaliation under this Policy. The parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing an Investigative Report. In their written responses to the evidence, the parties may offer additional

comment or feedback on the facts as gathered, clarify information previously shared, suggest additional witnesses, or identify any other relevant information or evidence to assure the thoroughness, sufficiency, and reliability of the investigation.

## **5. INVESTIGATIVE REPORT**

Following the conclusion of the Evidence Review period, the investigator will produce a written investigative report that fairly summarizes the relevant information that was gathered during the investigation. The report will include both inculpatory and exculpatory information. The investigator will provide the parties access to the Investigative Report at least ten (10) business days prior to any hearing for each party's review and written response. The investigator will share all evidence gathered during the investigation, the Investigative Report, and any written responses from the parties, with the University authorities empowered to act on violations of University policy.

## **6. INFORMAL RESOLUTION**

The informal resolution (IR) process is a voluntary, structured process involving the Complainant and Respondent (and their advisors, as applicable) to resolve the allegations following the filing of a formal complaint and prior to a formal hearing. The University's investigation into the Formal Complaint may continue during the informal resolution process. While the informal resolution process is intended to be flexible and provide a full range of possible outcomes, the University must maintain prompt timeframes for resolution of formal complaints. At any time after the filing of a formal complaint and prior to a formal hearing, either the Complainant or Respondent may provide written notification to the Title IX Coordinator requesting informal resolution in lieu of formal resolution.

The parties are not required to attempt informal resolution, and informal resolution is not appropriate for all types of alleged conduct. Informal resolution is not permitted for any complaint of sexual misconduct made by a student against an employee. In all other cases, the University shall determine if the matter is eligible for informal resolution. Factors that the University may weigh in considering the eligibility of a formal complaint for informal resolution include, but are not limited to: a pattern of alleged sexual misconduct by the same Respondent; whether the Respondent has a history of arrests or records indicating a history of sexual and/or physical violence; whether the allegations involved violence, use of weapons or similar factors, or; whether there is an ongoing threat of harm or safety to the Villanova community. The determination that a matter is not eligible for informal resolution is not subject to appeal.

If the University has determined the matter is eligible for informal resolution, and both parties consent to the process in writing, the matter will be referred to the appropriate University official or third party engaged by the University to facilitate the process. All related communications will go through the facilitator. Both parties and the facilitator will have an opportunity to offer proposals to become part of the final agreement. The informal resolution process does not require the parties to confront each other or be present in the same room. The parties may consult with an advisor before and during the informal resolution process, and the advisor may accompany the Complainant or Respondent to any meetings in connection with the process.

If, at any time prior to signing a written resolution agreement, either party does not agree with the proposed terms, or no longer wishes to continue negotiations, the party may withdraw, without penalty, from the informal resolution process. If either party withdraws from the informal resolution process, the informal resolution process will end, and the matter will

proceed to a hearing under the University’s formal resolution process. The University reserves the right to discontinue the informal resolution process if: information becomes available which makes the matter ineligible for informal resolution; there are health or safety concerns that have not been adequately addressed; an acceptable resolution cannot be reached between the parties within a reasonably prompt timeframe; the facilitator believes that one or both parties are not operating in good faith; or under other appropriate circumstances. The determination to discontinue the informal resolution process is not subject to appeal. In such cases, the matter will proceed to a hearing under the University’s formal resolution process.

The Facilitator and both parties must all agree to the outcome(s) of the informal resolution agreement. The facilitator will draft the agreement based upon the parties’ verbal or written agreement to the negotiated outcome(s). Separately, both parties will then be offered the opportunity to sign the informal resolution agreement. If either party refuses to sign this agreement, the IR process will be considered unsuccessful, and the matter will proceed to a hearing under the University’s formal resolution process. Once the parties sign the informal resolution agreement, the matter will be considered resolved and will not be eligible for further informal or formal resolution. A signed resolution agreement is binding on both parties and is not subject to appeal. Alleged violations of the terms of the informal resolution agreement, retaliation, or other violations will be considered a new and separate matter and will not reopen the original matter.

Any agreed upon resolution reached by the parties is subject to the University’s final approval. This includes any resolution reached by the parties without the University’s active participation or involvement.

**7. SPECIAL PROCEDURES**

At the conclusion of the investigation and all applicable steps described above, the matter will be referred to the specific resolution process as determined by the role of the Respondent, as outlined below:

<b>Role of Respondent</b>	<b>Link to Special Procedures</b>
Students (non-Law)	<a href="#">Student Special Procedures Governing Sexual Misconduct Proceedings</a>
Law Students	<a href="#">Law Student Special Procedures Governing Sexual Misconduct Proceedings</a>
Staff members	<a href="#">Staff Special Procedures Governing Sexual Misconduct Proceedings</a>
Faculty members and Faculty Administrators	<a href="#">Faculty Special Procedures Governing Sexual Misconduct Proceedings</a>

**F. RESOURCES FOR RESPONDENTS**

The University has designated the Respondent Resource Coordinator (RRC) team to provide assistance to any student accused of sexual misconduct. A Respondent Resource Coordinator is available to provide information on resources for students accused of sexual misconduct. The RRC will assist a Respondent with: accessing emotional support; connecting with on campus and community resources; outlining available supportive measures; and assisting with other questions and concerns to address the matter under this policy. Members of the RRC Team are available 9 am to 5 pm, Monday-Friday and can be reached by emailing [respondentresource@villanova.edu](mailto:respondentresource@villanova.edu) or calling 610-519-8807. Members of the Respondent Resource Coordinator Team do not act as legal counsel and do not serve as advisors in University disciplinary proceedings.



Members of the Respondent Resource Coordinator Team are required to share reports of sexual misconduct with the Title IX Coordinator. Respondents who wish to maintain confidentiality are encouraged to utilize confidential counseling services at the University Counseling Center. Note that confidentiality will be maintained by a counselor or therapist under all circumstances except when there is an immediate threat of serious harm to a person. This means that, in almost all circumstances, these individuals are not required to report any information to anyone without permission. Appointments are available Monday – Friday during normal business hours (9 am-5 pm) and can be scheduled by calling (610) 519-4050 or made in person on the 2nd Floor of the Health Services Building. Priests acting in a pastoral capacity are also available as confidential resources.

Respondents can contact the following resources for information on the University’s procedures; rights and responsibilities of the Complainant and Respondent; prohibition on retaliation; and for assistance with obtaining University resources:

<b>Respondent Resource Coordinator Team</b>	(610) 519-8807	<a href="mailto:respondentresource@villanova.edu">respondentresource@villanova.edu</a> <a href="mailto:ryan.rost@villanova.edu">ryan.rost@villanova.edu</a>
<b>Title IX Coordinator, Ms. Ryan Rost</b>	(610) 519-8805	
<b>Title IX Case Manager, Ms. Shannon Barnett</b>	(610) 519-8804	<a href="mailto:shannon.barnett@villanova.edu">shannon.barnett@villanova.edu</a>
<b>Dean of Students Office</b>	(610) 519-4200	<a href="mailto:deanofstudents@villanova.edu">deanofstudents@villanova.edu</a>
<b>Senior Director of Human Resources , Mr. Albert Baladez</b>	(610) 519-4238	<a href="mailto:albert.baladez@villanova.edu">albert.baladez@villanova.edu</a>

#### G. DISABILITY ACCOMMODATIONS

This policy does not alter Villanova University’s obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for documented disabilities to the Title IX Coordinator, investigator(s) and decision-makers at any point before or during the grievance process that do not fundamentally alter the grievance process. The University will not affirmatively provide disability accommodations that have not been specifically requested by a party, even where that party may be receiving accommodations in other institutional programs and activities. Requests should be submitted in advance to allow sufficient time to review, identify and implement any reasonable accommodations to the grievance process.

#### H. PREVENTION AND EDUCATION PROGRAMS

The University is committed to the prevention of sexual misconduct through regular and ongoing education and awareness programs. Detailed information regarding Villanova’s prevention and education efforts can be found at: <https://www1.villanova.edu/content/university/sexual-misconduct/education.html>

Individuals involved in the implementation of this Policy receive training as required by the Clery Act and Title IX.

#### I. DOCUMENTATION

The University will create and maintain the following records for a period of seven years: records of any actions, including any supportive measures, taken in response to a report or formal complaint; records of investigations, including any determination regarding responsibility and any audio or audiovisual recording or transcript created, any disciplinary

sanctions imposed on the Respondent, and any remedies provided to the Complainant; any appeal and the result therefrom; any informal resolution and the result therefrom. These records will be maintained in accordance with the privacy protections set forth in Title IX, the Clery Act, FERPA, and any other applicable federal and state laws regarding the privacy of education and personnel records.

## APPENDIX A

### Campus and Community Resources

**ON-CAMPUS RESOURCES:** Please note that Confidential Resources will not provide information to the Title IX Coordinator, Public Safety or law enforcement, but will encourage the reporting person to contact the Title IX Coordinator, Public Safety, or law enforcement to report the incident and pursue an investigation.

RESOURCE	CONTACT Email address @villanova.edu	ROLE	OFFICE LOCATION	CONFIDENTIAL*	AVAILABILITY
<b>Title IX Coordinator Ms. Ryan Rost</b>	610-519-8805 ryan.rost@	Accepts reports;  Coordinates supportive measures;  Liaison to Public Safety, SARC and/or RRC  Oversees Title IX Compliance	207 Tolentine Hall	NO	Normal business hours (Monday-Friday 9 am – 5 pm)
<b>Title IX Case Manager &amp; Senior Deputy Title IX Coordinator Ms. Shannon Barnett</b>	610-519-8804 shannon.barnett@	Accepts reports;  Coordinates supportive measures;  Liaison to Public Safety, SARC and/or RRC	207 Tolentine Hall	NO	Normal business hours (Monday-Friday 9 am – 5 pm)

RESOURCE	CONTACT Email address @villanova.edu	ROLE	OFFICE LOCATION	CONFIDENTIAL*	AVAILABILITY
<b>Public Safety</b>  <b>David Tedjeske, Director of Public Safety &amp; Chief of Police</b>  <b>Kim Kearney, Title IX Investigator &amp; Deputy Title IX Coordinator</b>	610-519-4444  Emergency  610-519-5800 david.tedjeske@ Non-Emergency  484-343-6926 kim.kearney@	Accepts reports; Conducts criminal and/or administrative investigations; Serves as liaison with other law enforcement agencies	Garey Hall, intersection of County Line Road, and Spring Mill Road	NO	24/7
<b>Sexual Assault Resource Coordinator(s) [SARC]</b>	484-343-6028  sarc@	Provides information about options and resources; Coordinates accommodations for students	Various	NO – all known information (including name of reporting person or complainant) shared with Title IX Coordinator - see section IV B of policy	Normal Business Hours (Monday- Friday 9 am – 5 pm)
<b>Respondent Resource Coordinator(s)</b>	610-519-8807 respondentresource@	Provides information on resources for respondents; Coordinates accommodations	Various	NO	Normal business hours, (Monday- Friday 9 am – 5 pm)

RESOURCE	CONTACT Email address @villanova.edu	ROLE	OFFICE LOCATION	CONFIDENTIAL*	AVAILABILITY
<b>Student Health Center</b>	610-519-4070	Provides medical care to students;  Testing for sexually transmitted infections, pregnancy, and predatory drugs, such as GHB, Rohypnol and Ketamine, is available;  Collection of evidence is not available and may be obtained at the local hospitals listed in the Off Campus Community Resources	Health Services Building, 3rd floor	NO – name of reporting person may not need to be shared if requested, see section IV B of policy  NOT Confidential if treated by a physician, who is required by law to report sexual violence to the local police authorities	24/7 when classes are in session; 8am-4pm at other times
<b>University Counseling Center</b>	610-519-4050	Provides counseling for students	Health Services Building, 2nd floor	YES	Normal business hours and after hours – contact Student Health Center
<b>UWill Crisis Help &amp; Telehealth Counseling</b>	833-646-1526	Provides counseling for students	<a href="https://app.uwill.com/">https://app.uwill.com/</a>	YES	24/7

RESOURCE	CONTACT Email address @villanova.edu	ROLE	OFFICE LOCATION	CONFIDENTIAL*	AVAILABILITY
<b>Residence Life / Resident Assistants</b>  <b>Professional Staff Members</b>	610-519-4154 or RAs located in each residence hall	Provides support & assists with reporting  Serves as liaison with Public Safety, SARC, and/or RRC	Stanford Hall, Ground Floor	NO	24/7 (through RA and professional on-call)
<b>Campus Ministry and Clergy Members</b>	610-519-3546 CMCommunication@	Provides support	109 St. Mary's Hall	YES if reporting to a priest in his capacity as pastoral counselor  NO if reporting to employees who are not priests	Normal business hours (Monday-Friday 9 am – 5 pm)
<b>Dean of Students</b>  <b>Tom DeMarco, Dean of Students &amp; Associate Vice President for Student Life</b>  <b>Sydney Scheiner, Assistant Dean of Students for Conduct Resolution and Community</b>	610-519-4200  tom.demarco@  sydney.scheiner@	Provides information concerning Code of Student Conduct Procedures  Coordinates accommodations  Provides support	202 Dougherty Hall  213 Dougherty Hall  213 Dougherty Hall	NO  NO	Normal business hours (Monday – Friday, 9 am – 5 pm)

RESOURCE	CONTACT Email address @villanova.edu	ROLE	OFFICE LOCATION	CONFIDENTIAL*	AVAILABILITY
<b>Engagement &amp; Deputy Title IX Coordinator</b>  <b>Rev. Bernie Scianna, OSA, Senior Associate Dean of Students for Student Support</b>	bernard.scianna@			YES  if in capacity as pastoral counselor	
<b>Health Promotion Stacy Andes, Director</b>	610-519-7409 stacy.andes@	Facilitates prevention initiatives	Health Services Building, 1st floor	NO	Normal business hours, (Monday-Friday 9 am – 5 pm)
<b>Student Life Kathy Byrnes, Vice President for Student Life</b>	610-519-4550 kathleen.byrnes@	Provides support	202 Dougherty Hall	NO	Normal business hours (Monday-Friday 9 am – 5 pm)
<b>Human Resources Raymond Duffy, Vice President for Human Resources and Affirmative Action Officer</b>  <b>Albert Baladez Senior Director</b>	610-519-5135 raymond.duffy@  610-519-4238 albert.baladez@	Accepts reports  Accepts reports; Provides information about options and resources; Conducts employment discrimination investigations	789 Lancaster Avenue	NO	Normal business hours (Monday – Friday 9 am – 5 pm)

<b>RESOURCE</b>	<b>CONTACT</b> Email address @villanova.edu	<b>ROLE</b>	<b>OFFICE LOCATION</b>	<b>CONFIDENTIAL*</b>	<b>AVAILABILITY</b>
<b>of Human Resources &amp; Deputy Title IX Coordinator</b>					
<b>Athletics</b>  <b>Lynn Tighe</b>  <b>Senior Associate Athletic Director/ Chief Athletics Administrative Officer/SWA &amp; Deputy Title IX Coordinator for Athletics</b>	610-519-4121  lynn.tighe@	Accepts reports; Provides information about options and resources	Field House	NO	Normal business hours (Monday-Friday 9 am – 5 pm)
<b>Office of Education Abroad</b>  <b>Liz Campanella, Director</b>	610-519-5443  elizabeth.campanella@	Provides support; Provides information about options and resources; Coordinates accommodations	Garey Hall	NO	Normal business hours, (Monday-Friday 9 am – 5 pm)
<b>Financial Assistance</b>	610-519-4010  finaid@	Provides information about financial assistance	Kennedy Hall, Second Floor	NO	Normal business hours, (Monday-Friday, 9 am – 5 pm)
<b>Visa and Immigration Services</b>	610-519-4095  steve.mcwilliams@	Provides support to international students	Connelly Center, Second Floor	NO	Normal business hours,

RESOURCE	CONTACT Email address @villanova.edu	ROLE	OFFICE LOCATION	CONFIDENTIAL*	AVAILABILITY
					(Monday-Friday 9 am – 5 pm)
<b>Health Advocate (employee assistance program through Human Resources)</b>	866-799-2728 or <a href="http://www.healthadvocate.com/villanovastaff">www.healthadvocate.com/villanovastaff</a>	Provides information about resources and counseling for employees		YES	24/7
<b>Anonymous Reporting hotline (EthicsPoint)</b>	1-855-236-1443 <a href="http://www.villanova.ethicspoint.com">www.villanova.ethicspoint.com</a>	Accepts reports		YES if reporter so desires	24/7

- **Confidential** means the person will not report the incident to Public Safety or the Title IX Coordinator except, in some cases, as an incident without identifying information (to comply with Clery reporting requirements on crime statistics). Other resources are private, meaning the report and names may be shared but only with University employees who are involved in the investigation or resolution of such incidents or as required by law.

### OFF-CAMPUS COMMUNITY RESOURCES

RESOURCE	PHONE CONTACT	CONFIDENTIAL
<b><u>Law Enforcement</u></b>	<b>911</b>	<b>NO</b>
<b>Radnor Township</b>	<b>610-688-0503</b>	
<b>Lower Merion Township</b>	<b>610-649-1000</b>	
<b>Conshohocken Borough</b>	<b>610-828-4032/4033</b>	
<b>Upper Merion Township</b>	<b>610-265-3232</b>	
<b>Tredyffrin Township</b>	<b>610-647-1440</b>	



<p><b><u>Local Hospitals</u></b></p> <p>(medical treatment and collection of evidence available; testing for predatory drugs may not be available but is available at the Student Health Center)</p> <p>Bryn Mawr Hospital</p> <p>Lankenau Medical Center</p> <p>Paoli Memorial Hospital</p>	<p>484-337-3000</p> <p>484-476-2000</p> <p>484-565-1000</p>	<p><b>NO</b></p> <p>Under Pennsylvania law, a hospital medical provider is required to notify law enforcement of a reported sexual assault. The Complainant may decline to speak with a law enforcement officer or participate in a criminal prosecution. The hospital medical provider will not, however, without consent, notify the University.</p>
<p>Philadelphia Sexual Assault Response Center (support, medical treatment, and collection of evidence available)</p>	<p>100 E. Lehigh Street Philadelphia, PA 19125</p> <p>215-425-1625</p>	<p><b>YES</b></p>
<p>Delaware County Victim Assistance Center</p> <p>24 Hour HOTLINE (24/7)</p>	<p>610-566-4342</p> <p>610-566-4342</p>	<p><b>YES</b></p> <p><b>YES</b></p>
<p>Domestic Abuse Project of Delaware County</p> <p>24 Hour HOTLINE (24/7)</p>	<p>610-565-6272</p> <p>610-565-4590</p>	<p><b>YES</b></p>
<p>Delaware County Office of the District Attorney</p>	<p>610-891-4162</p>	<p><b>NO</b></p>
<p>Community Legal Services of Philadelphia</p>	<p>215-981-3700</p>	<p><b>YES</b></p>
<p>Delaware County Bar Association</p>	<p>610-566-6627</p>	<p><b>NO</b></p>
<p>Federal Student Aid Information Center</p>	<p>1-800-433-3243</p> <p><a href="http://www.fafsa.gov">www.fafsa.gov</a></p>	<p><b>NO</b></p>
<p>Visa Services</p> <p>US Department of State <a href="http://www.state.gov">www.state.gov</a></p> <p>Catholic Social Services of Philadelphia- Immigration Services <a href="http://cssphiladelphia.org/css/community">http://cssphiladelphia.org/css/community</a></p>	<p>222 North 17<sup>th</sup> Street 3<sup>rd</sup> Floor</p> <p>Philadelphia, PA 19103</p> <p>267-331-2490</p>	<p><b>NO</b></p> <p><b>YES if legal services provided</b></p>

## APPENDIX B

### Title IX Notice of Nondiscrimination

Title IX of the Education Amendments of 1972 (“Title IX”), and its implementing regulations, prohibits discrimination on the basis of sex in any federally funded education program or activity. The requirement not to discriminate on the basis of sex in the University’s education program or activity extends to admission and employment. Sexual harassment, which includes sexual assault and other sexual misconduct, is a form of sex discrimination. Under the University Sexual Misconduct Policy, the University prohibits all forms of sexual misconduct including, sexual and gender-based harassment, sexual assault, sexual exploitation, dating violence, domestic violence, stalking and retaliation, some of which may constitute prohibited conduct under Title IX. As a recipient of federal funds, Villanova University complies with Title IX and has appointed Ms. Ryan Rost as its Title IX Coordinator. The Title IX Coordinator is responsible for overall Title IX compliance, including oversight of the University’s centralized review, investigation, and resolution process for matters arising under the University Sexual Misconduct Policy. Ms. Rost can be reached at 207 Tolentine Hall, (610) 519-8805, [ryan.rost@villanova.edu](mailto:ryan.rost@villanova.edu). Inquiries about the application of Title IX and its implementing regulations may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights, U.S. Department of Education’s Office for Civil Rights, or both.

Any student, employee or applicant for employment or admission to the University who believes that they have been discriminated against on the basis of sex, in violation of Title IX, or has been a victim of sexual misconduct under the University’s Sexual Misconduct Policy, may make a report or file a complaint with the Title IX Coordinator or Deputy Title IX Coordinator designated below. The Title IX Coordinator is a University resource who can: discuss with Complainants and Respondents the availability of supportive measures with or without the filing of a formal complaint; consider the Complainant’s and Respondent’s wishes with respect to available supportive measures; explain to the Complainant the process for filing a formal complaint; and explain to the Respondent the process following the filing of a formal complaint. The Title IX Coordinator or Deputy Title IX Coordinator will assist the Complainant in identifying the appropriate University policy (with its grievance procedure) to resolve the complaint in a prompt and equitable manner. The Title IX Coordinator or Deputy Title IX Coordinator may consult with other Villanova administrators, as needed, to resolve the complaint in the most effective manner.

The Title IX Coordinator is supported by several Deputy Title IX Coordinators, all of whom are knowledgeable and trained in state and federal laws that apply to matters of sexual misconduct, as well as University policy and procedure.

**Ms. Ryan Rost | Title IX Coordinator**

207 Tolentine Hall | (610) 519-8805 | [ryan.rost@villanova.edu](mailto:ryan.rost@villanova.edu)

**Ms. Shannon Barnett | Senior Deputy Title IX Coordinator**

Title IX Case Manager

207 Tolentine Hall | (610) 519-8804 | [shannon.barnett@villanova.edu](mailto:shannon.barnett@villanova.edu)

**Mr. Albert Baladez | Deputy Title IX Coordinator**

Human Resources

Senior Director of Human Resources

789 Lancaster Avenue | (610) 519-4238 | [albert.baladez@villanova.edu](mailto:albert.baladez@villanova.edu)

**Ms. Kim Kearney | Deputy Title IX Coordinator**

Title IX Investigator

Garey Hall | (484) 343-6926 | [kim.kearney@villanova.edu](mailto:kim.kearney@villanova.edu)

**Sydney Scheiner | Deputy Title IX Coordinator**

Assistant Dean of Students for Conduct Resolution

213 Dougherty Hall | (610) 519-4200 | [sydney.scheiner@villanova.edu](mailto:sydney.scheiner@villanova.edu)

**Ms. Lynn Tighe | Deputy Title IX Coordinator for Athletics**

Senior Associate Athletic Director for Administration

Field House, Second Floor | (610) 519-4121 | [lynn.tighe@villanova.edu](mailto:lynn.tighe@villanova.edu)

Concerns about the University's application of Title IX can be made externally to:

Assistant Secretary for Civil Rights

Office for Civil Rights (OCR)

U.S. Department of Education

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

TDD#: (877) 521-2172

Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr>

# Special Procedures Governing Sexual Misconduct Proceedings

## STUDENT SPECIAL PROCEDURES GOVERNING PROCEEDINGS INVOLVING ALLEGATIONS OF SEXUAL MISCONDUCT

### IMPLEMENTING THE CODE OF STUDENT CONDUCT

At the conclusion of the investigation and all applicable steps described in the University’s Sexual Misconduct Policy, formal complaints against undergraduate or graduate students will be referred to the Dean of Students Office. The procedures set forth below (“Special Procedures”) shall constitute the University’s Title IX and Sexual Misconduct grievance procedures for addressing alleged violations of the Sexual Misconduct Policy. The University’s full Sexual Misconduct Policy, which outlines the University’s reporting, formal complaint and investigative processes, including requests for disability accommodations related to those processes, can be found at: <https://villanova.policytech.com/docview/?docid=199&public=true9>.

#### 1. FORMAL RESOLUTION PROCESS

##### A. Student procedural rights

- i. Rights of the Respondent
- ii. Rights of the Complainant

##### B. Acceptance of Responsibility

##### C. Formal Resolution Hearing

- i. Notice and Participation
- ii. Consolidation Options
- iii. Hearing Decision-Maker
- iv. Hearing Procedures
- v. Advisors
- vi. Presentation of Evidence at the Formal Resolution Hearing
- vii. Closing Statements and Deliberations
- viii. Determination Regarding Responsibility

#### 2. SANCTIONS

#### 3. APPEALS

- A. Grounds for an appeal
- B. Process to appeal

### 1. FORMAL RESOLUTION PROCESS

As outlined in the full Sexual Misconduct Policy, when a formal complaint is made, a written Notice of Allegations will be sent to the Complainant(s) and Respondent(s). Such notice will occur as soon as practicable after Villanova receives a formal complaint, absent extenuating circumstances. An

investigation by a trained investigator will commence as set forth in the Sexual Misconduct Policy and the parties will be provided with options for informal resolution as outlined in the Sexual Misconduct Policy and formal resolution as outlined below.

At the conclusion of the investigation, the investigator will share all evidence submitted during the investigation, the Investigative Report, and any responses with the Dean of Students Office. Upon receipt of the Investigative Report, the Dean of Students will designate a Conduct Review Administrator who will serve as the primary point of contact for Complainants, Respondents, and their advisors during the Formal Resolution process. The Conduct Review Administrator will oversee the implementation of the formal resolution procedures and issue sanctions if the Respondent is found responsible or admits responsibility for violations of policy.

The Complainant and Respondent will meet with the Conduct Review Administrator separately to discuss next steps in the formal resolution process and review the Student Procedural Rights. This meeting will take place promptly after the matter has been referred to the Dean of Students.

If a student fails to respond to notice of a meeting with the Conduct Review Administrator, the resolution process may proceed in their absence.

If a Respondent chooses to withdraw from the University subsequent to the filing of a formal complaint, the University may elect to continue with the grievance procedures in their absence and may take appropriate steps to restrict access to campus and/or University programs or place appropriate holds on student records.

If the Complainant and/or the Respondent intend to have their Advisor (as defined below) accompany them to any meetings with the Dean of Students or the Conduct Review Administrator, they must provide the name and contact information of the Advisor to the Dean of Students or the Conduct Review Administrator at least three (3) business days prior to the initial meeting. If the same Advisor accompanies the party to subsequent meetings, additional notification is not required. Any change in Advisor must be communicated in advance of any scheduled meetings.

The University does not permit unauthorized observers, as determined by the University, to attend or participate in any meetings, hearings or other proceedings as part of the resolution process. Additionally, unauthorized recording of any such meetings and/or proceedings is strictly prohibited.

## **A. Student Procedural Rights**

### **i. Rights of the Respondent**

1. The right to choose whether or not to participate in the grievance procedures, with the understanding that findings may be made and sanctions may be imposed with or without such participation;
2. The right to notice of the allegations;
3. The right to notification of the grievance procedures;
4. The right to review all directly related evidence and the investigative report;

5. The right to a prompt and impartial response and resolution of complaints;
6. The right to be presumed not responsible until found otherwise;
7. The right to have the University bear the burden of proof by a preponderance of the evidence;
8. The right to present relevant statements, materials and witnesses during grievance procedures;
9. The right to have an Advisor of choice throughout the process or appointed by the University, free of charge, for the purposes of conducting cross-examination of the other party and witnesses during a conduct hearing;
10. The right to have available at the hearing all relevant evidence and the investigative report;
11. The right to have an Advisor conduct live cross-examination of any witnesses and/or the Complainant;
12. The right to written notification of:
  - a. any finding of responsibility
  - b. findings of fact supporting the determination
  - c. statement of and rationale for the result as to each allegation
  - d. any disciplinary sanctions imposed
  - e. any remedies provided to the Complainant
13. The right to be free from retaliation regardless of participation in the University's grievance process; and
14. The right of appeal consistent with these Special Procedures.

## **ii. Rights of the Complainant**

1. The right to choose whether or not to participate in grievance procedures, with the understanding that findings may be made with or without such participation
2. The right to notice of the allegations;
3. The right to notification of the grievance procedures;
4. The right to review all directly related evidence and the investigative report;
5. The right to a prompt and impartial response and resolution of the complaint;
6. The right to have the University bear the burden of proof by a preponderance of the evidence
7. The right to present relevant statements, materials and witnesses during the grievance procedures;
8. The right to have an Advisor of choice throughout the process or appointed by the University, free of charge, for the purposes of conducting cross-examination of the other party and witnesses during a conduct hearing

9. The right to have available at the hearing all relevant evidence and the investigative report;
10. The right to have an Advisor conduct live cross-examination on any witnesses and/or the Respondent
11. The right to written notification of:
  - a. any finding of responsibility
  - b. findings of fact supporting the determination
  - c. statement of and rationale for the result as to each allegation
  - d. any disciplinary sanctions imposed
  - e. any remedies provided
12. The right to be free from retaliation for filing a complaint or participating in the University's grievance process; and
13. The right of appeal consistent with the provisions of these Special Procedures.

## **B. Acceptance of Responsibility**

At any point following a formal complaint, a Respondent has the option to accept responsibility.

Following the acceptance of responsibility, the Respondent will be sanctioned accordingly by the Conduct Review Administrator utilizing the sanctioning considerations outlined below. Acceptance of responsibility may be rejected by the Conduct Review Administrator. The Conduct Review Administrator will provide all parties written notice of the sanction(s) imposed. Acceptance of responsibility does not waive the right to appeal as outlined below.

## **C. Formal Resolution Hearing**

Formal Resolution hearings are designed to determine responsibility for alleged violations. As such, the procedures are governed by University policies consistent with federal and state law.

The Conduct Review Administrator, as assigned by the Dean of Students, will facilitate the administrative needs of the hearing and will be present during the hearing to provide assistance.

### **i. Notice and Participation**

The Conduct Review Administrator will provide the Complainant and Respondent with a written notice of the hearing. The notice will include: the specific policy violations that will be the subject of the hearing; the date, time, and location of the hearing; the name of the Hearing Decision-Maker; how to challenge participation by the Hearing Decision-Maker on the basis of conflict of interest or bias; and information regarding procedural steps consistent with these Special Procedures and the Sexual Misconduct Policy.

The Complainant and Respondent are expected to cooperate fully during the hearing. If either party fails to appear at a scheduled hearing, the hearing may proceed without them.

### **ii. Consolidation Options**

In situations involving a formal complaint against multiple Respondents, where the allegations against each Respondent arise from the same set of facts or circumstances, the Conduct Review Administrator, in consultation with appropriate University officials, will determine whether the hearing concerning each Respondent will be conducted either separately or jointly.

In situations involving multiple formal complaints pending against the same Respondent, the University has discretion to consolidate the hearings where the incidents arise out of the same facts or circumstances. The University also has discretion, but not the obligation, to solicit and consider the input of the parties regarding the consolidation of hearings. If, during the course of the hearing, further violations of the Code of Student Conduct become apparent, the decision-maker may recommend that such alleged violations be investigated and resolved as a separate case.

### **iii. Hearing Decision-Maker**

The hearing will be conducted by a fair and impartial Hearing Decision-Maker, who will conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. The Hearing Decision-Maker may be a Villanova University faculty or staff member, or an external professional, as determined by the Conduct Review Administrator.

Any individual serving as a Hearing Decision-Maker will be free from conflicts of interest and bias for or against either party, and trained on the definitions of sexual misconduct, including sexual harassment, the scope of the University's education program or activity, how to conduct a hearing, how to serve impartially, by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and how to serve as an informed and impartial decision-maker. Training for Hearing Decision-Makers will include training content provided to investigators, as well training on any technology to be used at a live hearing and on issues of relevance of questions and evidence.

The Complainant and/or the Respondent may challenge the Hearing Decision-Maker if they believe that an actual conflict of interest or bias exists. The party making this challenge must submit a written request to the Title IX Coordinator with specific and verifiable information or documentation. All objections must be raised within five (5) business days of receiving notification of the appointed Hearing Decision-Maker. The Title IX Coordinator will make the determination whether to replace the Hearing Decision-Maker. The Complainant and Respondent may not contact the Hearing Decision-Maker or have third parties contact the Hearing Decision-Maker, prior to the hearing.

### **iv. Hearing Procedures**

Hearing Decision-Maker shall ask questions, run the hearing, make determinations on procedural issues, make findings of responsibility, make findings of fact supporting any determination of responsibility, and compile a written Determination Regarding Responsibility including a statement of and rationale for the result as to each allegation.

All hearings shall be held in an appropriate venue as determined by the Conduct Review Administrator and shall be private. The Conduct Review Administrator can provide for the hearing to occur virtually with technology that enables the parties to appear remotely from separate locations. The University



does not permit unauthorized observers, as determined by the University, to attend or participate in any meetings, hearings, or other proceedings as part of the resolution process. Additionally, unauthorized recording of any such proceedings is strictly prohibited.

The University will create and maintain a transcript of the hearing which, when complete, will be made available to the parties and their advisors.

Disruptive, threatening, intimidating, or uncivil behavior by the parties or their advisors will not be tolerated. Violations will normally result in a warning being issued by the Hearing Decision-Maker, or the Conduct Review Administrator. Repeated violations may result in offending party being asked to leave the hearing and the hearing may continue in their absence.

#### **v. Advisors**

A Complainant, and/or a Respondent participating in a Formal Resolution Hearing must be accompanied by an Advisor. This can be an Advisor of their choosing or, if the party does not have an Advisor or their Advisor is unavailable, a University-appointed Advisor provided free of charge for the sole purpose of facilitating cross-examination of the other party and witnesses. The Advisor may, but need not be, an attorney. If the party's Advisor of choice for the hearing is different from the Advisor attending previous meetings with the Conduct Review Administrator, the party must inform the Conduct Review Administrator of the change. This notification must be in writing, a minimum of five (5) business days in advance of the hearing and include the name and contact information for the Advisor.

A party's Advisor of choice may provide support and advice to their advisee at any meeting and/or hearing. With the exception of the advisor's cross-examination during a hearing, they may not speak on behalf of their advisee or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or hearings. The Advisor will offer no testimonial evidence or answer questions on behalf of their advisee; the Advisor may not conduct direct examination of their advisee; and the advisor may not present opening or closing remarks. The Advisor, and not the Complainant or Respondent, will conduct cross-examination of any witness in compliance with the hearing's procedures and the University's policies and procedures.

Advisors may ask to suspend any meetings, interviews, or hearings briefly to provide consultation; the University retains the discretion to deny such requests if they are excessive, burdensome, or otherwise unreasonable. The University may remove or dismiss advisors who do not abide by the restrictions on their participation or who are otherwise disruptive. An advisor may be asked to meet with the Title IX Coordinator in advance of any meetings or hearings to receive and acknowledge the University's overview of the policy, expectations of the role, privacy considerations, and appropriate decorum.

An advisor should plan to make themselves reasonably available for all meetings and hearings. Villanova will not intentionally schedule meetings or hearings on dates where the advisors for all parties are not available, provided that the advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules. Villanova's obligations to investigate and adjudicate in a prompt timeframe applies to matters governed under the University's Sexual Misconduct Policy and the University cannot agree to extensive delays solely to accommodate the schedule of an Advisor. Villanova will not delay a meeting or hearing under the Sexual Misconduct Policy for more

than five (5) business days due to the unavailability of an advisor and may offer the opportunity to obtain a different advisor or utilize one provided by Villanova. An advisor is entitled to review all information gathered in the investigation that is directly related to the allegations (as part of evidence review), to access to the investigation report, and to cross-examine the other party and all witnesses during the hearing.

#### **vi. Presentation of Evidence at the Formal Resolution Hearing**

The Complainant and the Respondent, may present:

- opening and closing statements concerning the alleged violation(s);
- relevant documentation and other evidence gathered during the investigatory process;
- relevant witnesses identified during the investigatory process.

The Respondent and the Complainant and their advisors may review all evidence and the investigative report provided to the Hearing Decision-Maker prior to the commencement of the hearing and have all evidence and the investigative report available to them during the hearing.

Formal rules of evidence shall not apply. In the Hearing Decision-Maker's discretion, evidence, shall be permitted if it is relevant, reliable, not unduly repetitious, and it is the sort of information on which responsible persons are accustomed to rely in the conduct of serious affairs.

During the hearing, the parties and witnesses will provide information to and answer questions from the Hearing Decision-Maker. Except for cross-examination by the Advisor, the Respondent, the Complainant, the Advisors and the witnesses will direct their comments and/or questions only to the Hearing Decision-Maker. The Hearing Decision-Maker may consider statements of all parties and witnesses, regardless of their participation in the hearing. Before any questions are answered, the Hearing Decision-Maker will determine if the question is relevant. Questions that are determined to be irrelevant, duplicative of those already asked or harassing in nature and tone may be disallowed.

In general, the following types of evidence and questions are not relevant:

- Evidence and questions about the Complainant's sexual predisposition or prior sexual history unless:
  - Such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
  - The questions and evidence concern specific incidents of the Complainant's prior sexual history with respect to the Respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- Any party's medical, psychological, and similar mental health records unless the party has given voluntary, written consent.

In addition, credible evidence regarding other reports of, or findings of responsibility for, similar conduct by the Respondent may also be deemed relevant to prove motive, intent, absence of mistake, pattern or another material fact. Similarly, prior or subsequent conduct of a Complainant, even when it involves conduct that may violate University policy, may be considered when relevant.

Any party seeking admission of prior sexual history and/or evidence of other misconduct, or seeking to challenge such evidence, must do so in writing: by advising the investigator during the investigatory process; and/or by advising the Conduct Review Administrator at least 3 business days in advance of the hearing. The written notice shall set forth the evidence the party is seeking to introduce and the relevancy of such information.

The Hearing Decision-Maker will make the determination as to the admissibility of this information or questions and will instruct all parties accordingly regarding any limit in scope or admissibility.

### **vii. Closing Statements and Deliberations**

After all statements and materials have been presented, the Complainant and the Respondent may present final comments to the Hearing Decision-Maker. Subsequently and in private, the Hearing Decision-Maker will deliberate to determine by a preponderance of the evidence whether the Respondent has violated University policy.

After the Hearing Decision-Maker has reached a determination as to responsibility, the Conduct Review Administrator will determine the appropriate sanction, as outlined below.

### **viii. Determination Regarding Responsibility**

The Conduct Review Administrator will simultaneously provide the written Determination Regarding Responsibility to all parties. The Determination will include:

1. Alleged violations of the Code of Student Conduct;
2. A description of the procedural steps taken from the filing of the formal complaint;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section(s) of the Code of Student Conduct, if any, the Respondent has or has not violated.
5. For each alleged violation:
  - a. A statement of, and rationale for, a determination regarding responsibility;
  - b. A statement of, and rationale for, any disciplinary sanctions determined by the Conduct Review Administrator (as outlined below) imposed on the Respondent; and
  - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to Villanova's education program or activity will be provided by the University to the Complainant; and
6. Procedures and the permitted reasons for the parties to appeal as outlined below, including the name of the Appeal-Decision Maker

Appropriate documentation will be maintained as required to allow the University to comply with applicable law.

## **2. SANCTIONS**

After the finding or admission of responsibility, the Conduct Review Administrator will impose sanctions after considering the following:

1. The nature of the violation and the circumstances surrounding it;

2. Impact on the individuals involved and/or the community as a whole;
3. Statements made or evidence presented in the investigative report and/or hearing;
4. Prior disciplinary record of the student;

The Conduct Review Administrator may consult with other University officials as they deem appropriate.

Sanctions serve to reinforce that students are held responsible and accountable for their behavior. This is accomplished by measures to educate, to deter future misconduct and to provide consequences for one's actions.

Villanova University reserves the right to notify parent(s)/legal guardian(s) about the disciplinary status of their student, to the extent consistent with the provisions of the Family Educational Rights and Privacy Act.

Disciplinary sanctions comprise the range of official actions which may be imposed for violations of the Code of Student Conduct. Any violation of the Code of Student Conduct may result in the full range of sanctions outlined in the [Sanctioning](#) section of the Student Handbook, and one or more may be imposed in response to a given situation.

### **3. APPEALS**

Both parties have the right to appeal the final determination of responsibility and/or the resulting sanction. The trained Appeal Decision-Maker, who may be a Villanova faculty or staff member or external professional, as determined by the Dean of Students, will review appeals. The Appeal Decision-Maker's responsibility will be strictly limited to determining the issues on appeal. The Appeal Decision-Maker may consult with other University officials as they deem appropriate and all decisions made by the Appeal Decision-Maker are final, including whether or not an appeal is procedurally permitted.

During the appeal process students who have received a disciplinary sanction may be subject to certain restrictions, impacting such things as: class attendance; on-campus housing; participation and/or membership in organizations, athletic events/teams/clubs, and/or extracurricular activities; attendance at University events/functions; and access to University buildings.

#### **A. Grounds for Appeal**

The Respondent and the Complainant may request an appeal based only on one or more of the following grounds:

##### **Appeal of the Determination as to Responsibility:**

1. Material Procedural Irregularity that affected the outcome of the matter;
2. New Relevant Evidence that was not reasonably available at the time of determination regarding responsibility or dismissal was made, that could affect 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 an individual Complainant or Respondent, or for or against Complainants or Respondents in general, that affected the outcome of the matter. The appeal must specify the basis on which the party believes there is an actual conflict of interest or bias that affected the matter.

### **Appeal for Review of Sanction:**

4. The sanction(s) imposed were disproportionate to the violation(s).

### **B. Process to Appeal**

As part of the written Determination of Responsibility, the Conduct Review Administrator will provide the parties with the name of the Appeal Decision Maker to whom appeals are submitted. The Respondent and the Complainant may request an appeal within seven (7) business days from the time of notification of determination and access to the hearing transcript. Appeals must be submitted to the Appeal Decision-Maker in writing and:

- Be from and signed (physical or electronic) by the Complainant or Respondent;
- Consist of a concise and complete statement no more than eight (8) single spaced pages (including attachments) utilizing 12-point font;
- Set forth one or more appropriate grounds for appeal as listed above.

If the appeal does not articulate appropriate grounds for appeal, it will be denied and both parties notified. If the appeal does articulate appropriate grounds for appeal, the Appeal Decision-Maker will notify both parties of the filing of the appeal. Each party will be given the opportunity to review and respond, in writing, to the other party's appeal. This response must be submitted within five (5) business days of the notice of the filing of an appeal. Any written response to an appeal will also be shared with the other party. No further written submissions will be permitted.

The Appeal Decision-Maker will promptly review the written appeal submissions and responses (if any) and any other materials relevant to the appeal, which may include: the investigative report, hearing transcript, and the Determination of Responsibility, and notify the parties of the outcome.

1. Appeals based on appropriate grounds of a Material Procedural Irregularity, New Relevant Evidence, or Conflict of Interest or Bias, will be resolved, as outlined below, prior to addressing any Appeals for Review of Sanction.
  - a. **Material Procedural Irregularity** – if found, and depending on the nature of the procedural error, the matter may be heard by a new Hearing Decision-Maker or the Appeal Decision-Maker may remand the matter to the original Hearing Decision-Maker for further deliberation to remedy the error ;
  - a. **New Relevant Evidence** – if found, the matter will be remanded to the original Hearing Decision-Maker for reconsideration in light of the new evidence;
  - b. **Conflict of Interest or Bias** – if found, the matter will be remanded for further deliberation consistent with the appellate finding.

Remedies for appeals based on the grounds listed above do not include automatic dismissal of the case or a unilateral determination of responsibility by the Appeal Decision-Maker.

2. Appeals for Review of Sanction will be heard subsequent to the resolution of any Appeals for Material Procedural Irregularity, New Relevant Evidence, or Conflict of Interest or Bias (if submitted). If the appeal is determined to be based on appropriate grounds for Review of Sanction, the Appeal Decision-Maker will accept as final and binding the previous decision that the Respondent has violated the Code of Student Conduct. Each party will be given the opportunity to separately meet and discuss their appeal for review of sanction and/or their response to the other party's appeal with the Appeal Decision-Maker. Each party may be accompanied by their advisor who may not participate in the discussion. Parents and guardians are permitted to participate in this discussion. The voluntary meeting will normally be scheduled within ten (10) business days of the original appeal being filed.

Within approximately ten (10) business days, the Appeal Decision-Maker will issue a written decision notifying the parties of the result of the appeal and rationale for the result.

### **SEXUAL MISCONDUCT COMPLAINT PROCEDURES FOR COMPLAINTS AGAINST FACULTY OR STAFF**

Complaints of sexual misconduct against faculty or staff governed by special procedures outlined in the University's [Sexual Misconduct Policy](#).