



TITLE IX

Sexual Harassment Grievance Policy and Procedure

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I. Policy Statement

Consistent with the University's Non-Discrimination Notice and the U.S. Department of Education's implementing regulations for Title IX of the Education Amendments of 1972 ("Title IX") (see 34 C.F.R. § 106 *et seq.*), the University prohibits Title IX Sexual Harassment that occurs within its Education Programs or Activities. For purposes of this policy, Title IX Sexual Harassment includes Quid Pro Quo Harassment, Hostile Environment Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, as defined herein.

Administrators, faculty, staff, students, contractors, guests, and other members of the University community who commit Title IX Sexual Harassment are subject to the full range of University discipline, including verbal reprimand; written reprimand; mandatory training, coaching, or counseling; mandatory monitoring; partial or full probation; partial or full suspension; permanent separation from the institution (that is, termination or dismissal); physical restriction from University property; and any combination of the same. The University will provide persons who have experienced Title IX Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the University's Education Programs or Activities.

II. Scope

This policy applies to Title IX Sexual Harassment that occurs within the University's Education Programs or Activities and that is committed by an administrator, faculty member, staff member, student, contractor, guest, or other member of the University community. This policy does not apply to Sexual Harassment that occurs off campus, in a private setting, and outside the scope of the University's Education Programs or Activities; such sexual misconduct may be prohibited by other conduct policies for students and employees.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Title IX Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in the University's Education Programs or Activities, such as a University-sponsored trip. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the University's established conduct policies for students and employees.

III. Definitions

"Actual Knowledge"—Notice of Title IX Sexual Harassment or allegations of Title IX Sexual Harassment to the University's Title IX Coordinator or to any Official With Authority, as defined herein. For purposes of this definition, a report of Title IX Sexual Harassment to a Mandatory Reporter, as defined herein, shall be deemed notice to the Title IX Coordinator upon receipt by the Mandatory Reporter. Assumption of

knowledge based solely on the University's status as an employer or other presumption under law does not constitute Actual Knowledge. This standard is not met when the only official of the University with Actual Knowledge is the Title IX Respondent. "Notice" as used here includes, but is not limited to, a report or complaint of Title IX Sexual Harassment to the Title IX Coordinator or any Official With Authority in person, by mail, by telephone, by email, or by electronic submission (such as through the University's online reporting form), using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator or an Official With Authority receiving the person's verbal or written report.

"Business Days"—Any day on which the University is open for normal operations, excluding Saturdays, Sundays, official University holidays, scheduled University closures (including, but not limited to, winter break and spring break), and any day on which normal University operations are suspended due to an emergency closure.

"Coercion"—Direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person of ordinary susceptibility to perform an act which otherwise would not have been performed or acquiesce in an act to which one would otherwise not have submitted. Coercion can include unreasonable and sustained pressure for sexual activity.

Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. A person's words or conduct cannot amount to coercion for purposes of this policy unless they wrongfully impair the other's freedom of will and ability to choose whether to engage in sexual activity.

"Confidential Advisor"—An individual who (a) is not an Official With Authority or Mandatory Reporter, as defined herein, and (b) is not required under this Policy to report Title IX Sexual Harassment to the Title IX Coordinator. Communications with a Confidential Advisor are not considered notice to the University for purposes of the Actual Knowledge standard. The University has designated the following as Confidential Advisors: (i) Campus Ministry staff; (ii) Sexual Assault Counselors or trained volunteers as defined by Florida law; (iii) licensed counselors providing services through the University's Counseling Services Department; and (iv) clinical staff at the Padre Pio Campus Health Clinic.

“Consent”—Informed, freely given, mutually and clearly understandable words or actions that convey, and are intended to be taken as conveying, a willingness to engage in sexual activity. A person can withdraw consent at any time. There is no consent when there is force, threats, intimidation, or duress. A person’s lack of verbal or physical resistance or manner of dress do not constitute consent. Consent to past sexual activity with another person does not constitute consent to future sexual activity with that person. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. A person cannot consent to sexual activity if the person is unable to understand the nature, fact, or extent of the activity or give knowing consent due to circumstances including without limitation the following:

1. The person is incapacitated due to the use or influence of alcohol, drugs, medication, or any other substance.
2. The person is asleep or unconscious.
3. The person is under the age of consent under applicable Florida law.
4. The person has a mental, intellectual, or physical disability or condition that prevents the person from having the capacity to give consent.

“Education Program or Activity”—Refers to all operations of the University, including, but not limited to, in-person and online educational instruction, employment, research, extracurricular activities, athletics, student housing, and study-abroad programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the University, including any building owned or controlled by a student organization that is officially recognized by the University. It also includes off-campus locations, events, or circumstances over which the University exercises substantial control over both the Title IX Respondent and the context in which Title IX Sexual Harassment occurs.

“Incapacitated”—Refers to the state where a person does not appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition or disability, or due to a state of unconsciousness or sleep.

“Mandatory Reporter”—Any person at Ave Maria University who is required by this Policy to report allegations of Sexual Harassment to the Title IX Coordinator when such employees become aware of such allegations. At Ave Maria University, the following individuals have been designated as Mandatory Reporters: all faculty, all Resident Advisors, all Resident Directors, all administrators, and all individuals serving in supervisory roles (including, but not limited to, coaches and extracurricular activity sponsors). Confidential Advisors, as defined by this Policy, are not considered Mandatory Reporters.

“Officials With Authority”—Any official designated by the University to have authority to institute corrective measures on behalf of the institution, including the President, the Chief of Staff, any vice president, and any member of the President’s Cabinet.

“Title IX Appellate Decisionmaker”—One or more individuals designated to conduct an appeal required by Title IX and this Title IX Sexual Harassment Grievance Policy and Procedure. The Title IX Appellate Decisionmaker cannot be the Title IX Coordinator, the Title IX Investigator, or the Title IX Decisionmaker assigned to the same Formal Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement this Title IX Sexual Harassment Grievance Policy and Procedure and to serve impartially.

“Title IX Complainant”—An individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

“Title IX Coordinator”—An individual designated and authorized by the University to coordinate its efforts to comply with and carry out its responsibilities under the regulations implementing Title IX. The Title IX Coordinator’s contact information can be found in this Policy and Procedure.

“Title IX Decisionmaker”—An individual or a panel of individuals designated by the Title IX Coordinator or designee to reach a determination regarding responsibility in a Formal Title IX Complaint by applying the clear and convincing evidence standard of proof. The Title IX Decisionmaker cannot be the Title IX Coordinator, the Title IX Investigator, or Title IX Appellate Decisionmaker assigned to the same Formal Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement this Title IX Sexual Harassment Grievance Policy and Procedure and to serve impartially. The Title IX Decisionmaker or Decisionmakers may be employees of the University or may be external to the University.

“Title IX Formal Complaint”—A document filed by a Title IX Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Title IX Respondent and requesting that the University investigate the allegation. At the time of filing a Formal Title IX Complaint, a Title IX Complainant must be participating in or attempting to participate in the University’s Education Program or Activity within which the Formal Title IX Complaint is filed. A Formal Title IX Complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information required to be listed for the Title IX Coordinator in the University’s Nondiscrimination Policy and included in this Policy and Procedure. As used here, the phrase “document filed by a Title IX Complainant” means a document or electronic submission (such as by email or paper or electronic form provided for this purpose by the University) that contains the Title IX Complainant’s physical or digital signature, or otherwise indicates that the Title IX Complainant is the person filing the Formal Title IX Complaint. Where the Title IX Coordinator signs a Formal Title IX Complaint, the Title IX Coordinator is not a complainant or otherwise a party under this Title IX Sexual Harassment Grievance Policy and Procedure. If a Complainant is a minor, the Title IX Formal Complaint may be signed by a parent or legal guardian.

“Title IX Informal Resolution Facilitator”—An individual designated by the Title IX Coordinator to seek an informal resolution of a Title IX Formal Complaint in accordance with this Title IX Sexual Harassment

Grievance Policy and Procedure. The Title IX Informal Resolution Facilitator must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent and must be trained to properly implement this Title IX Sexual Harassment Policy and Procedure and to serve impartially.

“Title IX Investigator”—An individual designated to investigate a Formal Title IX Complaint according to this Title IX Sexual Harassment Grievance Policy and Procedure. The Title IX Investigator cannot be the Title IX Decisionmaker or the Title IX Appellate Decisionmaker assigned to the same Title IX Formal Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement this Title IX Sexual Harassment Grievance Policy and Procedure and to serve impartially.

“Title IX Respondent”—An individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

“Title IX Sexual Harassment—Conduct on the basis of sex that satisfies one or more of the following:

- *Quid Pro Quo*: A University employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; or
- *Hostile Environment*: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to the University's Education Program or Activity; or
- *Sexual Assault* consists of one or more of the following:
 - *Rape*: 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, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.
 - *Fondling*: The intentional touching of the clothed or unclothed body parts, without consent, of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation; or the forced touching by the victim of the other individual's clothed or unclothed body parts, without consent of the victim, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
 - *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Florida law.

- *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent as defined by Florida law.
- *Dating Violence* means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim, and (2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- *Domestic Violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Florida, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Florida.
- *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress.

"Title IX Supportive Measures"—Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a Title IX Complainant or Respondent before or after the filing of a Formal Title IX Complaint or where no Formal Title IX Complaint has been filed. Such measures are designed to restore or preserve equal access to the University's Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or to deter Sexual Harassment. Title IX Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

"Title IX Team"—The group of individuals responsible for addressing reports and complaints of Title IX Sexual Harassment, including the Title IX Coordinator or designee, Title IX Investigators, Title IX Decisionmakers, Title IX Appellate Decisionmakers, and Title IX Informal Resolution Facilitators.

"Retaliation"—Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding under this policy.

IV. AMU Good Faith Disclosure Policy

The University is concerned first and foremost with the safety of the entire campus community. The University recognizes that students may be reluctant to report to University officials the occurrence of Title

IX Sexual Harassment because they are concerned about charges for violating the University's Code of Student Conduct or the University's Sexual Morality and/or Visiting Hours policies. While violations of the Code of Student Conduct, Sexual Morality, and/or Visiting Hour policies are not condoned, the University strongly encourages individuals to report potential Title IX Sexual Harassment. The University will not pursue disciplinary action against students for disclosure of personal violations of the Code of Student Conduct, the Sexual Morality, and/or the Visiting Hours policies, where the disclosure is made in connection with a good faith report or investigation of prohibited Title IX Sexual Harassment. The University may initiate an educational discussion or pursue other non-disciplinary options regarding University violations that may have occurred.

V. Understanding Hostile Environment Sexual Harassment

In determining whether a hostile environment exists, the University will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Title IX Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. The University will evaluate the totality of circumstances from the perspective of a reasonable person in the Title IX Complainant's position. A person's adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

The University encourages members of the University community to report any and all instances of Title IX Sexual Harassment, even if they are unsure whether the conduct rises to the level of a policy violation.

Some specific examples of conduct that may constitute Title IX Sexual Harassment if unwelcome include, but are not limited to:

- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual contact
- Unwelcome kissing, hugging, or massaging
- Sexual innuendos, jokes, or humor
- Displaying sexual graffiti, pictures, videos, or posters
- Using sexually explicit profanity
- Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
- Email, internet, or other electronic use that violates this policy
- Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
- Sending sexually explicit emails, text messages, or social media posts
- Commenting on a person's dress in a sexual manner

- Giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship
- Insulting, demeaning, or degrading another person based on gender or gender stereotypes

VI. Understanding Incapacitation and Coercion

The concepts of Incapacitation and Coercion are central to the University's definition of Consent and its determination of whether Title IX Sexual Harassment has occurred. The following guidance is intended to help members of the University community understand how these concepts apply in practice.

Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to consent to engage in sexual contact because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the "who, what, where, when, why or how" of the sexual interaction) and/or is physically or mentally helpless. An individual is also considered incapacitated, and therefore unable to give consent, when asleep, unconscious, or otherwise unaware that sexual contact is occurring. Incapacitation can only be found when the Respondent knew or should have known that the Complainant was incapacitated when viewed from the position of a sober, reasonable person. One's own intoxication is not an excuse for failure to recognize another person's incapacitation. Incapacitation may result from the use of alcohol and/or other drugs; however, consumption of alcohol or other drugs, inebriation, or intoxication alone are insufficient to establish incapacitation. Incapacitation is beyond mere drunkenness or intoxication. The impact of alcohol or drugs varies from person to person, and evaluating incapacitation requires an assessment of how consumption of alcohol and/or drugs impacts an individual's: Decision-making ability; awareness of consequences; ability to make informed judgments; capacity to appreciate the nature of circumstances of the act. No single factor is determinative of incapacitation. Some common signs that someone may be incapacitated include slurred speech, confusion, shaky balance, stumbling or falling down, vomiting, and unconsciousness.

Coercion

Coercion is a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person of ordinary susceptibility to perform an act that the person would not otherwise have performed, or to acquiesce in an act to which the person would not otherwise have submitted. Coercion can include unreasonable and sustained pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type and degree of pressure used. A person's words or conduct amount to Coercion for purposes of this Policy only when they wrongfully impair the other person's freedom of will and ability to choose whether to engage in sexual activity. Factors the University may consider in evaluating whether Coercion occurred include, but are not limited to:

- The frequency, duration, and intensity of the pressure applied
- The degree of isolation of the person subjected to the pressure

- Whether the person applying the pressure held a position of power or authority over the other person
- Whether threats (express or implied) of physical, academic, professional, financial, or reputational harm were made
- Whether the person subjected to the pressure indicated, verbally or through conduct, that the sexual activity was unwanted

A single request or expression of interest in sexual activity does not constitute Coercion. However, repeated and escalating pressure after a person has indicated that the sexual activity is unwanted may constitute Coercion, depending on the totality of the circumstances.

VII. Reporting Title IX Sexual Harassment

Any person may report Title IX Sexual Harassment to the Title IX Coordinator. Reports may be made in person, by regular mail, telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. In-person reports must be made during normal business hours, but reports can be made by regular mail, telephone, or electronic mail at any time, including outside normal business hours.

The name and contact information for the Title IX Coordinator is:

Julia Davis
Title IX Coordinator
Prince 160
5251 Donahue Street
Ave Maria, FL 34142
(239)304-7163; TitleIXCoordinator@avemaria.edu

All Mandatory Reporters are required to promptly report potential Title IX Sexual Harassment in the University's Education Programs or Activities to the Title IX Coordinator. A Mandatory Reporter's duty to Report is triggered when: (1) the Mandatory Reporter receives a Report of potential Title IX Sexual Harassment from another person; (2) the Mandatory Reporter observes potential Title IX Sexual Harassment; or (3) the Mandatory Reporter learns about potential Title IX Sexual Harassment through some other means.

VIII. Title IX Grievance and Investigation Procedures

If the University has Actual Knowledge of Title IX Sexual Harassment, the University shall respond in a manner that is not clearly unreasonable in light of the known circumstances by using this Title IX Sexual Harassment Grievance Policy and Procedure.

The University's Title IX Office is responsible for investigating complaints of Title IX Sexual Harassment. No person designated or serving as a Title IX Coordinator or designee, Title IX Investigator, Title IX Decisionmaker, Title IX Appellate Decisionmaker, or Title IX Informal Resolution Facilitator shall have a conflict of interest or bias for or against Title IX Complainants or Respondents generally, or against an individual Title IX Complainant or Title IX Respondent.

Nothing in this Policy and Procedure shall be construed or interpreted in a manner that is inconsistent with the University Faculty Handbook or an individual faculty member's employment contract.

a. Preliminary Assessment

After receiving a report, the Title IX Coordinator will conduct a preliminary assessment to determine:

- Whether the conduct, as reported, falls or could fall within the scope of this policy; and
- Whether the conduct, as reported, constitutes or could constitute Title IX Sexual Harassment.

If the Title IX Coordinator determines that the conduct reported could not fall within the scope of the policy, and/or could not constitute Title IX Sexual Harassment, even if investigated, the Title IX Coordinator will close the matter and may notify the reporting party if doing so is consistent with the Family Educational Rights and Privacy Act ("FERPA"). The Title IX Coordinator may refer the report to other University officials, as appropriate.

If the Title IX Coordinator determines that the conduct reported could fall within the scope of the policy, and/or could constitute Title IX Sexual Harassment, if investigated, the Title IX Coordinator will proceed to contact the Title IX Complainant.

As part of the preliminary assessment, the Title IX Coordinator may take investigative steps to determine the identity of the Title IX Complainant, if it is not apparent from the report.

b. Contacting the Title IX Complainant

After conducting the preliminary assessment, the Title IX Coordinator or designee will initiate an initial meeting with the Title IX Complainant to:

1. Discuss the availability of Supportive Measures.
2. Inquire about and consider the Title IX Complainant's wishes with respect to Supportive Measures.
3. Inform the Title IX Complainant of the availability of Supportive Measures
with or without the filing of a Formal Complaint.

4. Explain to the Title IX Complainant the process for filing a Formal Complaint as set forth in this Title IX Sexual Harassment Grievance Policy and Procedure.

If the Complainant is a minor, communications with the Complainant will include the Complainant's parent(s) and/or legal guardian.

c. Supportive Measures

The University will offer and make available Supportive Measures to the Title IX Complainant regardless of whether the Title IX Complainant elects to file a Formal Title IX Complaint. Contemporaneously with the Title IX Respondent being notified of a Formal Title IX Complaint, the Title IX Coordinator will notify the Title IX Respondent of the availability of Supportive Measures for the Title IX Respondent, and the University will offer and make available Supportive Measures to the Title IX Respondent in the same manner in which it offers and makes them available to the Title IX Complainant. The University will also offer and make available Supportive Measures to the Title IX Respondent prior to the Title IX Respondent being notified of a Formal Title IX Complaint, if the Title IX Respondent requests such measures. If the Title IX Respondent is a minor, communications with the Title IX Respondent will include the Title IX Respondent's parent(s) and/or legal guardian. The University will maintain the confidentiality of Supportive Measures provided to either a Title IX Complainant or Title IX Respondent, to the extent that maintaining such confidentiality does not impair the University's ability to provide the Supportive Measures in question. The University may not impose any disciplinary sanctions or other actions that are not Supportive Measures against a Title IX Respondent unless a Formal Title IX Complaint has been filed and a finding of responsibility has been issued against the Title IX Respondent under this Title IX Sexual Harassment Grievance Policy and Procedure.

d. Emergency Removals/Leaves of Absence

The University may remove a student–Title IX Respondent from its education program or activity on an emergency basis, provided that the University: (1) makes an individualized safety and risk analysis; (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal; and (3) provides the Title IX Respondent with notice and an opportunity to challenge the decision immediately following the removal. The University also may place a non–student employee Title IX Respondent on paid administrative leave during the pendency of this Title IX Sexual Harassment Grievance Policy and Procedure. Such emergency removals/leaves of absence must comply with any other relevant laws, policies, administrative procedures, and agreements governing removals of students and/or employees from the institution's program or activity.

For all other Respondents, including independent contractors and guests, the University retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Sexual Harassment or otherwise.

e. Formal Complaint

A Title IX Complainant may file a Formal Title IX Complaint with the Title IX Coordinator requesting that the University investigate and adjudicate a report of Title IX Sexual Harassment in accordance with this Title IX Sexual Harassment Grievance Policy and Procedure. At the time of filing a Formal Title IX Complaint, the Title IX Complainant must be participating in, or attempting to participate in, one or more of the University's Education Programs or Activities.

A Title IX Complainant may file a Formal Title IX Complaint with the Title IX Coordinator in person, by regular mail, or by email using the contact information specified above. No person (other than the parent or legal guardian of a minor student) may submit a Formal Title IX Complaint on the Title IX Complainant's behalf.

In any case, including a case where a Title IX Complainant elects not to file a Formal Title IX Complaint, the Title IX Coordinator may file a Formal Title IX Complaint on behalf of the University if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University community. Factors the Title IX Coordinator may consider include, but are not limited to: (a) whether a weapon was involved in the incident; (b) whether multiple assailants were involved in the incident; (c) whether the Title IX Respondent is a repeat offender; and (d) whether the incident creates a risk of occurring again.

If the Title IX Complainant or the Title IX Coordinator files a Formal Title IX Complaint, the University will commence an investigation and proceed to adjudicate the matter in accordance with this Title IX Sexual Harassment Grievance Policy and Procedure. In all cases where a Formal Title IX Complaint is filed, the Title IX Complainant will be treated as a party, irrespective of the Title IX Complainant's level of participation.

In a case where the Title IX Coordinator files a Formal Title IX Complaint, the Title IX Coordinator will not act as a Title IX Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

The University may consolidate Formal Title IX Complaints as to allegations of Title IX Sexual Harassment against more than one Title IX Respondent, or by more than one Title IX Complainant against one or more Title IX Respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances. Where the investigation and adjudication process involves more than one Title IX Complainant or more than one Title IX Respondent, references in this Policy and Procedure to the singular "party," "Title IX Complainant," or "Title IX Respondent" include the plural, as applicable. A Formal Complaint of Retaliation may be consolidated with a Formal Title IX Complaint of Title IX Sexual Harassment.

f. Notice of Formal Complaint

The Title IX Coordinator or designee will provide written notice to any known Title IX Complainant(s) and Title IX Respondent(s) that includes:

1. A physical copy of, or a hyperlink to, this Title IX Sexual Harassment Grievance Policy and Procedure
2. Sufficient details known at the time so that the parties may prepare for an initial interview with the Title IX Investigator, including the identities of the parties involved in the incident (if known), the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident (if known)
3. A statement that the Title IX Respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will not be made until the conclusion of the adjudication and any appeal
4. Notice to the Title IX Complainant and Title IX Respondent of their right to be accompanied by an advisor of their choice, who may be, but is not required to be, an attorney
5. Notice to the Title IX Complainant and Title IX Respondent of their right to inspect and review evidence obtained during the investigation
6. Notice to the Title IX Complainant and Title IX Respondent of the University's prohibitions on Retaliation and on knowingly making false statements or knowingly providing false information in the course of a Title IX proceeding
7. Information about resources available to the parties from the University and in the community

If at any time during the course of the investigation additional allegations of Title IX Sexual Harassment arise that will be investigated and that were not included in the written notice, the Title IX Coordinator or designee will, within five (5) Business Days of the decision to add the allegations to the investigation, provide notice of the additional allegations as described above to the parties whose identities are then known.

g. Mandatory and Discretionary Dismissals

The University shall dismiss a Title IX Formal Complaint if the Title IX Coordinator determines that the conduct alleged in the Title IX Formal Complaint would not constitute Title IX Sexual Harassment, even if proved; that the conduct alleged did not occur in the University's Education Programs or Activities; or that the conduct alleged did not occur against a person in the United States. In a case where the Title IX Complainant files a Title IX Formal Complaint, the Title IX Coordinator will evaluate the Title IX Formal Complaint within ten (10) Business Days of receipt and dismiss any allegation that meets one or more of the foregoing criteria. Nothing precludes action on any dismissed allegations under another policy, procedure, or rule of the University. Upon such dismissal, the Title IX Coordinator or designee will send

written notice of the dismissal and reason(s) therefor simultaneously to the parties and advise them of their right to appeal.

The University may also dismiss a Title IX Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that any one or more of the following is true:

- The Title IX Complainant provides the Title IX Coordinator with written notice that the Title IX Complainant wishes to withdraw the Title IX Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed).
- The Title IX Respondent is no longer enrolled or employed by the University.
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Title IX Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).

In the event the Title IX Coordinator dismisses a Title IX Formal Complaint pursuant to this Section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to appeal. The Title IX Coordinator may refer the subject matter of the Title IX Formal Complaint to other University officials, as appropriate.

h. Identification of Investigator

The Title IX Coordinator or designee will identify and document one or more qualified Title IX Investigator(s) who will investigate the allegations of Title IX Sexual Harassment in the Title IX Formal Complaint.

i. Informal Resolution

Unless the Formal Title IX Complaint involves an allegation of Title IX Sexual Harassment by a University employee against a student, the Title IX Coordinator or designee will, within ten (10) Business Days of assignment of the Title IX Investigator to the Formal Title IX Complaint, notify the Title IX Complainant and the Title IX Respondent of the option to participate in informal resolution. The University will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Title IX Formal Complaints of Title IX Sexual Harassment consistent with this Policy and Procedure. The University also will not require the parties to participate in an informal resolution process under this Policy and Procedure and may not offer an informal resolution process unless a Title IX Formal Complaint has been filed. However, at any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the University:

1. Provides to the parties a written notice disclosing:
 - the allegations;

- the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Title IX Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Title IX Complaint; and
 - any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
 3. Does not offer or facilitate an informal resolution process to resolve allegations that a University employee committed Title IX Sexual Harassment against a student.

If informal resolution is undertaken, the Title IX Coordinator or designee will assign a Title IX Informal Resolution Facilitator who will attempt to informally resolve the matter between the parties. The Title IX Informal Resolution Facilitator must be free from conflicts of interest or bias against Title IX Complainants and Title IX Respondents generally and against an individual Title IX Complainant or Title IX Respondent. During the informal resolution process, all timeframes under this Title IX Sexual Harassment Grievance Policy and Procedure will be tolled. If informal resolution results in a resolution of the matter, the Title IX Coordinator will document the terms of the resolution, and the matter will be closed. If no resolution is reached within twenty (20) Business Days of commencement of the informal resolution, unless such 20-day time period is extended by agreement of the parties, or if the parties do not elect to engage in informal resolution, the Title IX Investigator(s) will recommence the investigation and the timeframes under this Title IX Sexual Harassment Grievance Policy and Procedure will recommence.

j. Investigation

1. **Burdens:** The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not on the parties, provided that the University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains the voluntary, written consent to do so from that party. No information protected by a legally recognized privilege will be sought out or used by the University unless a party chooses to voluntarily waive such privilege. Such information includes, but is not limited to, attorney-client communications and confidential medical information.
2. **Equal Treatment – Evidence Presentation:** The Title IX Investigator will provide an equal opportunity to the Title IX Complainant(s) and the Title IX Respondent(s) to present evidence in support of or in mitigation of their respective positions, including fact and expert witnesses. The

University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. The Title IX Investigator and the Title IX Decisionmaker will objectively review all relevant evidence, including both inculpatory and exculpatory evidence, and credibility determinations will not be based on a person's status as a Title IX Complainant, Title IX Respondent, or witness.

3. **Equal Treatment – Advisors:** The Title IX Investigator will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of choice, who may be, but is not required to be, an attorney, and will not limit the choice or presence of an advisor for either the Title IX Complainant or Title IX Respondent in any meeting or grievance proceeding; however, the University may establish restrictions regarding the extent to which the advisor may participate in the proceedings, if at all, as long as the restrictions apply equally to both parties. If a party does not have an advisor present at the live hearing, the University will provide an advisor of the University's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
4. **Written Notice of Meetings:** The University will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time for the party to prepare to participate.
5. **Documentation of Investigation:** The Title IX Investigator will take reasonable steps to ensure the investigation is documented. Interviews of the parties and witnesses may be documented by the investigator's notes, audio recorded, video recorded, or transcribed. The particular method utilized to record the interviews of parties and witnesses will be determined by the investigator in the investigator's sole discretion, although whatever method is chosen shall be used consistently throughout a particular investigation.
6. **Equal Opportunity – Evidence Review:** The University will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Title IX Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. Prior to completion of the investigative report, the Title IX Investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten (10) calendar days to submit a written response, which the Title IX Investigator will consider prior to completion of the investigative report.
7. **Investigative Report:** Generally, within ninety (90) Business Days of receipt of the Title IX Formal Complaint, the Title IX Investigator will create a written investigative report that fairly summarizes the investigation and append to it all evidence relevant to the allegations. send the investigative

report and relevant evidence to each party and the party's advisor, if any, for their review and written response. The Title IX Investigator will also send a copy of the investigative report and evidence to the Title IX Coordinator

k. Adjudication

- 1. Designation of Decisionmaker:** After receipt of the investigative report and relevant evidence, the Title IX Coordinator or designee will identify one or more Title IX Decisionmakers for the Formal Complaint, which cannot include the Title IX Coordinator or designee or the Title IX Investigator assigned to the Formal Complaint. The Title IX Decisionmaker or Decisionmakers may be employees of AMU or may be external to the University.

The Title IX Coordinator will then appoint an adjudicator whose responsibility it will be to adjudicate the Complaint. Within three (3) days of being notified about the adjudicator's identity, either party may raise concerns, if any, about bias or conflict of interest to the Title IX Coordinator.

The investigative report and its appended evidence will be transmitted to the adjudicator. The adjudicator will promptly send written notice to the parties notifying the parties of the adjudicator's appointment; setting a deadline for the parties to submit a written response to the investigation report and its appended evidence which shall not be sooner than seven (7) days from the date the investigator transmitted the investigation report.

- 2. Response to Investigative Report:** A party's written response to the investigation report must include:

- To the extent the party wishes to respond to any aspect of the investigation report or evidence, any such response.
- A list of questions the party contends should be posed to the other party and any witnesses.
- Any argument that a particular piece or class of evidence should be categorically excluded from consideration based on any one or more of the standards specified in this policy.

The written response may also include:

- Argument regarding whether any of the allegations in the Complaint are supported by a preponderance of the evidence.
- Argument regarding whether any of the allegations in the Complaint constitute Sexual Harassment.

While the party may receive assistance in preparing the written response, the written response must be submitted and signed by the party themselves or, in the case of a minor student, the student's parent or legal guardian.

3. **Pre-Hearing Conference:** After the deadline for the parties to submit their written responses to the investigative report, and before the live hearing, the Title IX Decisionmaker or Decisionmakers may convene a pre-hearing conference with the parties and their advisors. The pre-hearing conference may be conducted in person or remotely, at the discretion of the Title IX Decisionmaker or Decisionmakers.

The purposes of the pre-hearing conference include, but are not limited to:

- a. Addressing any procedural or logistical issues in advance of the hearing, including scheduling, the anticipated length of the hearing, and the order of witnesses
- b. Identifying and simplifying the issues in dispute, including the specific allegations of Title IX Sexual Harassment to be addressed at the hearing
- c. Exchanging witness lists, including the identity of any expert witnesses, and addressing any objections or concerns regarding proposed witnesses
- d. Addressing any evidentiary issues, including objections to specific evidence or categories of evidence on the grounds of relevance, privilege, or the protections afforded to the Title IX Complainant's prior sexual behavior under this Policy and Procedure
- e. Discussing proposed questions for cross-examination and, to the extent practicable, identifying and resolving any disputes regarding relevance prior to the hearing
- f. Confirming whether any party requires accommodations to participate in the hearing, including the need for an interpreter, disability-related accommodations, or arrangements to participate from a separate location
- g. Addressing any other matters that the Title IX Decisionmaker or Decisionmakers deem appropriate to facilitate the fair and efficient conduct of the hearing

The Title IX Decisionmaker or Decisionmakers will provide written notice of the date, time, and location (or remote access information) of the pre-hearing conference to all parties and their advisors not less than five (5) Business Days before the conference. Attendance at the pre-hearing conference is strongly encouraged but is not mandatory, and a party's absence shall not delay or prevent the hearing from proceeding as scheduled.

Nothing discussed or decided during the pre-hearing conference shall preclude either party from raising additional issues, objections, or questions at the live hearing, subject to the Title IX Decisionmaker or Decisionmakers' authority to rule on relevance and other procedural matters at the hearing.

4. **Live Hearing:** A live hearing will be scheduled not less than ten (10) days after the deadline for the parties to submit their written responses to the investigative report pursuant to Section 2 above, or, if no written responses are timely submitted, not less than ten (10) days after the expiration of the deadline for such responses. The Title IX Coordinator or designee will provide written notice of the

date, time, and location (or, if remote, the means of access) of the live hearing to all parties and their advisors not less than ten (10) days before the hearing.

The live hearing will comply with the following requirements:

- a. The hearing will be conducted by a Decisionmaker or Decisionmakers as set forth and defined above. The Title IX Decisionmaker(s) shall be impartial and free from bias or conflict of interest. The parties will be informed of the identities of the Title IX Decisionmaker or Title IX Decisionmakers before the live hearing. If a Complainant or Respondent has concerns that one or more of the Title IX Decisionmakers cannot conduct a fair and unbiased hearing, they may report those concerns to the Title IX Office. The Title IX Office will assess the circumstances and determine whether a different Title IX Decisionmaker should be assigned.
- b. The hearing is an opportunity for the parties to address the Title IX Decisionmaker or Decisionmakers live and to question the other party and/or witnesses. The live hearing is also an opportunity for the Title IX Decisionmaker or Decisionmakers to obtain additional information that is necessary to make a determination of whether a policy violation occurred.
- c. The Title IX Decisionmaker or Decisionmakers have broad discretion to establish rules for the live hearing, which may include, but are not limited to, governing decorum, setting time limits for opening and closing remarks, empowering the Title IX Decisionmaker or Decisionmakers to take a temporary recess, and any such other rules deemed prudent for the effective and efficient conduct of the live hearing—provided however, that any such rules must be consistent with this Policy and Procedure and must apply equally to the Title IX Complainant and Respondent.
- d. All live hearings may be held either remotely or in person at a designated University location. Upon the request of either party, the University will accommodate the request to participate from a separate location by providing technology enabling all participants to simultaneously see and hear each other. If a fully remote hearing is requested, the University may, at its discretion, conduct the hearing via a remote meeting application. Whether the hearing is in person or remote, the parties and the Title IX Decisionmaker or Decisionmakers must be able to simultaneously see and hear the party or witness answering questions. Witnesses may participate remotely at the discretion of the Title IX Decisionmaker or Decisionmakers.
- e. The live hearing is closed to the public. The Title IX Complainant and Title IX Respondent are each allowed to have one advisor of their choice present throughout the hearing. The advisor's role during the hearing is set forth in subsection (g) below. Parties will be notified in advance of the identities of those who will be in attendance or presenting witness testimony.
- f. An official audio recording or official transcription will be made of the live hearing. Parties are prohibited from making any audio or video recordings of any kind during the hearing, including

cellphone recordings. No audio or video recording equipment will be permitted in the hearing rooms except as arranged by the Title IX Office.

- g.** At the hearing, the Title IX Decisionmaker or Decisionmakers must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Only relevant cross-examination and other questions may be asked of a party or witness. Before a party or witness answers a cross-examination question, the Title IX Decisionmaker or Decisionmakers must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. With respect to cross-examination:

- Cross-examination must be conducted by the party's advisor, and never by the party. If a party does not have an advisor present at the live hearing, the University will provide an advisor of the University's choice, without charge to the party, who may be, but is not required to be, an attorney to conduct cross-examination on behalf of the party.
- Questions and evidence about the Title IX Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Title IX Complainant's prior sexual behavior are offered to prove that someone other than the Title IX Respondent committed the conduct alleged by the Title IX Complainant, or if the questions and evidence concern specific incidents of the Title IX Complainant's prior sexual behavior with respect to the Title IX Respondent and are offered to prove Consent.

Notwithstanding the foregoing, a Title IX Complainant who affirmatively uses information otherwise considered irrelevant by this Section for the purpose of supporting the Title IX Complainant's allegations may be deemed to have waived the protections of this Section.

- The Title IX Decisionmaker or Decisionmakers must explain to the party proposing the questions any decision to exclude a question as not relevant. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by the party personally.
- h.** Complainant, Respondent, witnesses, and other individuals providing information to the Decisionmakers are expected to provide truthful information in any proceeding under this Policy and Procedure.

- 5. Written Determination:** Within twenty (20) Business Days of the conclusion of the live hearing, or, if no live hearing is held, within twenty (20) Business Days of receipt of the final written responses from the parties, the Title IX Decisionmaker or Decisionmakers will issue a written determination regarding responsibility. To reach this determination, the Title IX Decisionmaker or Decisionmakers will apply the clear and convincing evidence standard. The written determination shall include:

- a.** Identification of the allegations potentially constituting Title IX Sexual Harassment

- b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held
 - c. The Title IX Decisionmaker or Decisionmakers' findings of fact, including an assessment of the credibility of the parties and witnesses, a summary of the evidence supporting and contradicting the determination, and an explanation of how conflicts in the evidence were resolved
 - d. Conclusions regarding the application of this Title IX Sexual Harassment Grievance Policy and Procedure to the facts, including whether the conduct at issue constitutes Title IX Sexual Harassment as defined herein
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility
 - f. Any disciplinary sanctions the University will impose on the Title IX Respondent, and the rationale for such sanctions, if the Title IX Respondent is found responsible
 - g. Whether remedies designed to restore or preserve equal access to the University's Education Program or Activity will be provided by the University to the Title IX Complainant if the Title IX Respondent is found responsible (the Title IX Coordinator is responsible for the effective implementation of any remedies)
 - h. The University's procedures and permissible bases for the Title IX Complainant and Title IX Respondent to appeal, including the deadline for filing a notice of appeal
 - i. A statement that any disciplinary sanctions imposed on the Title IX Respondent will not take effect until the determination regarding responsibility becomes final, as set forth in Section 6 (Appeal) below, unless the Title IX Respondent poses an immediate threat to the physical health or safety of any student or other individual, in which case an emergency removal may remain in effect during the pendency of any appeal
- 6. Notice of Written Determination:** The Title IX Decisionmaker(s) or designee will send the written determination simultaneously to the parties along with information about how to file an appeal and notification of the parties' right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

1. Appeal

Both parties may appeal from either a determination regarding responsibility or from the University's dismissal of a Formal Complaint or any allegations therein, on the following bases:

- 1. Procedural irregularity or error that affected the outcome of the matter

2. New evidence or information that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter
3. Claims that the Title IX Coordinator or designee, Investigator(s), or Decisionmaker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Title IX Complainant or Title IX Respondent that affected the outcome of the matter
4. Imposed sanction that is substantially disproportionate to the violation for which the Title IX Respondent was found responsible

A Title IX Complainant or Title IX Respondent who wishes to appeal must submit a written notice of appeal to the Title IX Coordinator within seven (7) Business Days of the date of the written determination. The notice of appeal must identify the specific ground(s) for appeal from among those listed above and include a brief statement explaining why the appealing party believes the ground(s) are met. An appeal may be filed by email, mail, or hand delivery to the Title IX Coordinator. If delivered by mail, the notice of appeal must be postmarked by the seventh (7th) Business Day after the date of the written determination. If the non-appealing party wishes to file a cross-appeal, the cross-appeal must be filed within five (5) Business Days of receipt of notice that the other party has filed an appeal, using the same procedures set forth above.

1. The Title IX Coordinator or designee must do the following:
 - a. Within five (5) Business Days of receipt of the appeal, notify the other party in writing that an appeal was filed.
 - b. Implement appeal procedures equally for both parties.
 - c. Ensure that the Appellate Decisionmaker(s) are not the same person(s) as the Title IX Decisionmaker(s) that reached the determination regarding responsibility or dismissal, the Title IX Investigator(s) assigned to the formal complaint, or the Title IX Coordinator or designee.
 - d. Ensure that each Title IX Appellate Decisionmaker complies with the standards set forth in this Policy and Procedure for appeals.
2. The Title IX Appellate Decisionmaker(s) will review the appeal on the existing record and will not conduct a de novo review. The Title IX Appellate Decisionmaker(s) will defer to the original factual findings unless they are clearly erroneous, and will review procedural and legal determinations without deference. The Title IX Appellate Decisionmaker(s) may affirm the determination, reverse the determination, modify the sanction, or remand the matter to the appropriate member of the Title IX Team for further proceedings. The Title IX Appellate Decisionmaker(s) must do the following:
 - a. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

- b. Issue a written decision describing the result of the appeal, the rationale for the result, and, if remanding, the specific issues to be addressed on remand, within thirty (30) Business Days of receipt of the notice of appeal.
- c. Provide the written decision on appeal simultaneously to both parties.

If an appeal results in a remand, the Title IX Coordinator or designee will assign the matter to the appropriate member of the Title IX Team to address the specific issues identified in the appellate decision. If a remand requires a new hearing or a new determination regarding responsibility, a different Title IX Decisionmaker or Decisionmakers must be assigned. The Title IX Coordinator will notify the parties in writing of the scope and anticipated timeline of the remand proceedings. A determination regarding responsibility becomes final on the date that (1) if an appeal is filed, the Title IX Appellate Decisionmaker or designee provides the parties with the written decision on appeal affirming or modifying the determination (or, if remanded, on the date the remand proceedings conclude with a final determination that is not further appealed); or (2) if no appeal is filed, the date on which an appeal would no longer be considered timely. The Title IX Coordinator or designee is responsible for effective implementation of any remedies.

After the determination regarding responsibility becomes final, the University or the parties may exercise any rights ancillary to this Title IX process as necessary, including, but not limited to, disciplinary processes for suspensions or expulsions of students; tenured faculty dismissal proceedings; and any other process required by applicable law, agreement, policy, or contract. No ancillary disciplinary process may commence until the determination regarding responsibility has become final as set forth above.

IX. Confidentiality

The University will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including Title IX Sexual Harassment; any Title IX Complainant; any individual who has been reported to be the perpetrator of sex discrimination; any Title IX Respondent; and any witness, except as may be permitted by FERPA or FERPA regulations, or as required by law, or as necessary to carry out the purposes of this Title IX Sexual Harassment Grievance Policy and Procedure, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder, the implementation of supportive measures or remedies, and compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The University will disclose information only to the extent required to comply with applicable law or to conduct an investigation, hearing, or proceeding under this Policy and Procedure, to implement supportive measures or remedies, or as otherwise required by the Clery Act, and will otherwise keep such information confidential to the extent practicable.

All participants in the Title IX process, including the Title IX Complainant, Title IX Respondent, witnesses, and advisors, are encouraged to maintain the privacy of the proceedings to protect the integrity of the process and the privacy interests of all parties involved. However, nothing in this Policy and Procedure shall be construed to restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

X. Retaliation Prohibited

No person may engage in retaliation, as defined in Section II of this Policy and Procedure. 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 the State or federal Constitution, State or federal statute, the University policy, or this Title IX Sexual Harassment Grievance Policy and Procedure, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Title IX Sexual Harassment Grievance Policy and Procedure. Retaliation is prohibited and may result in disciplinary action independent of the outcome of any underlying Title IX complaint.

Charging an individual with a code of conduct violation for knowingly making a materially false statement or knowingly providing false information in the course of an investigation under this Title IX Sexual Harassment Grievance Policy and Procedure is not prohibited retaliation; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement or knowingly provided false information. Complaints alleging retaliation may be reported directly to the Title IX Coordinator using the contact information listed in this Policy and Procedure or may be filed under the AMU Student Handbook, the AMU Employee Handbook, or the AMU Faculty Handbook.

XI. Bad Faith Complaints and False Information

It is a violation of this Policy for any person to submit a report or Title IX Formal Complaint that the person knows, at the time the report or Title IX Formal Complaint is submitted, to be false or frivolous. It is also a violation of this Policy for any person to knowingly make a materially false statement during an investigation, adjudication, or appeal under this Policy. Violations of this Section are not subject to the investigation and adjudication processes in this Policy; instead, they will be addressed under other applicable conduct policies for students and employees.

XII. Required Title IX Training

The University will ensure that University officials acting under this policy, including but not limited to the Title IX Coordinator, investigators, adjudicators, informal resolution facilitators, University-provided advisors, and appeals officers receive training in compliance with 34 C.F.R. § 106.45(b)(1)(iii) and any other applicable federal or state law.

XIII. Required Title IX Recordkeeping

The University will retain those records specified in 34 C.F.R. § 106.45(b)(10) for a period of seven (7) years, after which point in time they may be destroyed, or continue to be retained, in the University's sole discretion. The records specified in 34 C.F.R. § 106.45(b)(10) will be made available for inspection, and/or published, to the extent required by 34 C.F.R. § 106.45(b)(10) and consistent with any other applicable federal or state law, including FERPA.

XIV. Right to Pursue Other Remedies Not Impaired

The right of a person to resolve a report or complaint under this Policy and Procedure shall not be impaired by the person's pursuit of other remedies, such as criminal complaints, civil actions, etc. Use of this Policy and Procedure are not a prerequisite to the pursuit of other remedies and may not extend any filing deadline related to the pursuit of other remedies. If a person is pursuing another remedy subject to a complaint under this Policy and Procedure, the University will conduct its own investigation; although in some cases, delays due to another process may be warranted or required.

XV. Deadlines

All timeframes under this Title IX Sexual Harassment Grievance Policy and Procedure may be temporarily extended for good cause by the Title IX Coordinator or a designee. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disability; and other circumstances outside of the institution's control. The Title IX Coordinator or a designee shall notify the parties in writing when a timeframe is extended.

XVI. Additional Information

Inquiries about this Title IX Sexual Harassment Grievance Policy and Procedure may be directed to the Title IX Coordinator. Any person may also file a complaint of sex discrimination, including Title IX Sexual Harassment, with the United States Department of Education's Office for Civil Rights (contact information available online at: <https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination>).

XVII. Other Procedures

To the extent that they do not conflict with any requirements of this Title IX Sexual Harassment Grievance Policy and Procedure and are implemented equally and fairly as to the parties, the Title IX Team may use processes from the University's other Sexual Harassment and sexual misconduct policies, including those set forth in the AMU Student Handbook, the AMU Employee Handbook, and the AMU Faculty Handbook, when processing Title IX Sexual Harassment reports and complaints. If the University intends to use any such processes in addressing Title IX Sexual Harassment reports or complaints, the Title IX Coordinator or designee will make available written administrative procedures supplementing this Title IX Sexual Harassment Grievance Policy and Procedure and detailing the additional procedures to be used.

XVIII. Constitutional and State Law Rights

The University will construe and apply this Policy and Procedure consistent with the U.S. Constitution and applicable state law. In no case will a Title IX Respondent be found to have committed Title IX Sexual Harassment based on expressive conduct that is protected by the U.S. Constitution or applicable state law.

XIX. Relationship with Criminal Process

This Policy and Procedure sets forth the University's processes for responding to reports and Title IX Formal Complaints of Title IX Sexual Harassment. The University's processes are separate, distinct, and independent of any criminal processes. While the University may temporarily delay its processes under this Policy and Procedure to avoid interfering with law enforcement efforts if requested by law enforcement, the University will otherwise apply this Policy and Procedure and its processes without regard to the status or outcome of any criminal process.

XX. Vendors, Contractors, and Third Parties

The University does business with various vendors, contractors, and other third parties who are not students or employees of the University. Notwithstanding any rights that a given vendor, contractor, or third-party Title IX Respondent may have under this Policy and Procedure, the University retains its right to limit any vendor, contractor, or third party's access to campus for any reason. The University also retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third party irrespective of any process or outcome under this Policy and Procedure.

XXI. Discretion in Application

The University retains discretion to interpret and apply this Policy and Procedure in a manner that is not clearly unreasonable, even if the University's interpretation or application differs from the interpretation of the parties.

Despite the University's reasonable efforts to anticipate all eventualities in drafting this Policy and Procedure, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the University retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this Policy and Procedure are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the University retains discretion to revise this Policy and Procedure at any time, and for any reason. The University may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

XXII. Resources

1. Reporting to Law Enforcement and Campus Security

The University supports every individual's right to report to law enforcement and can assist in doing so. The following resources are available:

AMU Security Department: (239)280-6289. AMU Security is available 24 hours a day, 7 days a week. AMU Security may contact the Collier County Sheriff's Office or other local law enforcement

agencies, as appropriate. AMU Security will also notify the Title IX Coordinator and the Office of Student Affairs.

Collier County Sheriff's Office Emergency: 911, 8–911 (from a campus phone), or (239)252–9300

Project HELP: (239)262–7227

AMU Security, residence hall directors and/or Student Affairs staff at (239)280–2540 will provide students who need transportation and reasonable assistance.

2. Medical, Counseling, & Pastoral Care Resources

Ongoing care is also critically important. Students are encouraged to make use of the following resources. All the resources described below are available to students regardless of whether or not a Formal Complaint of Title IX Sexual Harassment is filed.

- a. **The University Counselor:** Students needing confidential counseling services can reach out to the Title IX Coordinator who will provide counseling scheduling information and resources.
- b. **Project HELP, (239)262–7227:** Project **HELP** can also provide ongoing counseling and support services.
- c. **Campus Ministry, (239)280–2518, chaplain@avemaria.edu:** The Campus Ministry staff is trained to provide pastoral counseling and support to students or to friends who wish to support and assist them.
- d. **Title IX Coordinator, (239)304–7163, TitleIXCoordinator@avemaria.edu:** The Title IX Coordinator can provide information about the Title IX process, connect students with supportive resources, and assist with scheduling confidential counseling services.

XXIII. Preventing Sexual Harassment

The University's harassment prevention efforts are coordinated through the Office of Student Affairs' Title IX Office. Through collaborative efforts with other University departments and outside agencies, Student Affairs works to prevent Sexual Harassment through annual awareness seminars, education, the promotion of a safe and respectful campus community, and bystander intervention training. Programs include educational seminars, volunteer opportunities, resource and referral information, and annual Title IX training.