

SEXUAL MISCONDUCT POLICY 2020-21

Eff. 8/14/2020

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**IMPORTANT INFORMATION FOR INDIVIDUALS WHO
MAY BE VICTIMS OF SEXUAL ASSAULT, DATING
VIOLENCE, DOMESTIC VIOLENCE, OR STALKING:**

If you or someone you know may have been a victim of Sexual Assault, Dating Violence, Domestic Violence or Stalking, you are strongly encouraged to seek immediate assistance.

**ASSISTANCE CAN BE OBTAINED 24 HOURS A DAY, 7 DAYS A WEEK, FROM
THE FURMAN UNIVERSITY POLICE DEPARTMENT
(LOCATED IN ESTRIDGE COMMONS AND AVAILABLE BY PHONE AT 864-294-2111).**

During business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), you are also strongly encouraged to contact one of the following individuals:

Melissa Nichols, Title IX Coordinator

Title IX and ADA Coordinator

864-294-2221; melissa.nichols@furman.edu

Ms. Nichols's office is located in Suite 215 of the Trone Student Center.

Jason Cassidy, Deputy Title IX Coordinator

Associate Vice President for Student Life and Dean of Students

864-294-2093; jason.cassidy@furman.edu

Dr. Cassidy's office is located in Suite 215 of the Trone Student Center.

Stephanie Boyd, Deputy Title IX Coordinator

Assistant Dean of Students/Alcohol and Drug Education Coordinator

864-294-2292; stephanie.boyd@furman.edu

Ms. Boyd's office is located in Suite 215 of the Trone Student Center.

Rachael Simpson, Deputy Title IX Coordinator

Assistant Athletic Director/Compliance & Student-Athlete Development

864-294-2370; rachael.simpson@furman.edu

Ms. Simpson's office is located in the Alley Gymnasium.

Kristen Davis, Deputy Title IX Coordinator

Employee Relations Manager

864-294-3101; kristen.davis@furman.edu

Ms. Davis's office is located at 5013-D Old Buncombe Road.

For additional information about seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies, hospitals, and other resources, **see Exhibits A and B attached to this Policy.**

PART I. INTRODUCTION

The provisions set forth in this Part I apply to the entire Policy.

Section 1.01 Notice of Nondiscrimination.

Furman University (“Furman” or “the University”), in compliance with and as required by Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”) and other civil rights laws, as well as in furtherance of its own values as an institution of higher education, does not unlawfully discriminate on the basis of race, color, national origin, sex, sexual orientation, gender, gender identity, pregnancy, disability, age, religion, veteran status, or any other characteristic or status protected by applicable local, state, or federal law in admission, treatment, or access to, or employment in, its programs and activities.

Sexual Misconduct is antithetical to the values and standards of the Furman community, is incompatible with the safe, healthy environment that the Furman community expects and deserves, and will not be tolerated. Furman is committed to providing programs, activities, and an education and work environment free from Sexual Misconduct and to fostering a community that promotes prompt reporting and fair and timely resolution of those behaviors.

Inquiries concerning Sexual Misconduct may be referred to Furman’s Title IX and ADA/Section 504 Coordinator, Melissa Nichols. Ms. Nichols’s contact information is provided on [Exhibit A](#). Members of the community may also report concerns regarding Sexual Misconduct using the Campus Conduct Hotline, the contact information for which is provided on [Exhibit A](#).

Inquiries concerning discrimination or harassment not addressed by this Policy may be referred to Vice President for Student Life Connie Carson (for students) or Assistant Vice President for Human Resources Sharen Beaulieu (for employees). [Exhibit A](#) contains their contact information.

Individuals also may make inquiries regarding discrimination or harassment to the U.S. Department of Education’s Office for Civil Rights by contacting the District of Columbia Office, 400 Maryland Avenue, SW, Washington, D.C. 20202-1475; Phone: 800-421-3481; email: OCR@ed.gov.

Section 1.02 Prohibited Conduct.

Creating a safe environment is the responsibility of all members of the University community.

- (a) **Prohibition on Sexual Misconduct.** This Policy prohibits Sexual Misconduct. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by people of any gender, and it can occur between people of different genders or people of the same gender. The University strongly encourages prompt reporting of all types of Sexual Misconduct and is committed to fostering a community that promotes timely and fair resolution of Sexual Misconduct cases. To that end, the University has defined Sexual Misconduct broadly, and the University will address all allegations of Sexual Misconduct.
- (b) **Prohibition on Retaliation.** Retaliation, whether by the University or any other person, is strictly prohibited. Violations of this prohibition will be addressed through this Policy and/or other University disciplinary procedures, as deemed appropriate in the University’s discretion.

The prohibition on Retaliation does not end with the resolution of a Complaint. Retaliation may be present even after a finding of “not responsible” for allegations of Sexual Misconduct. Retaliatory behavior is not limited to behavior by the accused individual and covers behaviors by his or her associates and other third parties. Any person who feels that he or she has been subjected to Retaliation should make a report to the Title IX Coordinator.

- (c) Prohibition on Providing False Information or Interfering with an Investigation.** Any individual who knowingly files a false report or Complaint or who interferes with a grievance process may be subject to disciplinary action. Interference with a grievance process may include, but is not limited to:
- (i)** Attempting to coerce, compel or prevent an individual from providing testimony or relevant information;
 - (ii)** Removing, destroying or altering documentation relevant to the investigation; or
 - (iii)** Providing false or misleading information or making false or misleading statements to University officials who are involved in the investigation and resolution of a Complaint, or encouraging others to do so.

Section 1.03 Applicability of Policy and Grievance Procedures.

This Policy applies to any allegation of Sexual Misconduct made by or against a student or an employee of the University or a third party, regardless of the sex, sexual orientation, sexual identity, gender, gender expression, or gender identity of any party and wherever the alleged Sexual Misconduct occurred, if the conduct giving rise to the Complaint is related to the University’s academic, educational, athletic, extracurricular, internship or practicum programs or activities. There is no geographical limitation to invoking this Policy.

Furman will address all allegations of Sexual Misconduct as follows:

- (a)** The Grievance Procedures for Title IX Sexual Misconduct apply to Title IX Allegations. In the event that allegations include both Title IX Allegations and Non-Title IX allegations, the Grievance Procedures for Title IX Sexual Misconduct will apply to all of the allegations.
- (b)** The Grievance Procedures for Non-Title IX Sexual Misconduct apply to Non-Title IX Allegations.

When Sexual Misconduct is alleged by or against a University employee or student in a Furman-affiliated internship or educational program of another organization (and therefore not within the University’s academic, educational, athletic, extracurricular, internship or practicum programs or activities), the University may, in its discretion, choose to 1) conduct its own investigation pursuant to the Grievance Procedures for Non-Title IX Sexual Misconduct; 2) conduct a joint investigation with the affiliated entity; 3) defer to the findings of an investigation by the other entity where the University has reviewed the investigation process and is satisfied that it was fairly conducted; or 4) use the investigation and findings of the other entity as a basis for further investigation.

If the University investigates a report of Sexual Misconduct that is alleged to have occurred during a time a different Sexual Misconduct Policy or version was in effect, the Grievance Procedures for Non-Title IX Sexual Misconduct will govern the procedures utilized in investigating and adjudicating the report, while the Sexual Misconduct Policy definitions in effect at the time of the alleged conduct will apply in determining whether a University policy was violated.

In the case of allegations of Sexual Misconduct, unless otherwise stated, this Policy supersedes and applies in lieu of all other procedures and policies set forth in other University documents.

The University may address conduct that, although it does not rise to the level of constituting Sexual Misconduct as defined by this Policy, is nevertheless offensive and/or unwanted conduct of a sexual nature. Addressing such conduct may not result in the imposition of discipline, but will be addressed through respectful confrontation, remedial actions, requiring the completion of educational programs (including but not limited to sexual misconduct prevention programs), and/or conflict resolution efforts.

Section 1.04 Consolidation of Allegations.

The University may consolidate Complaints 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. Where a grievance process involves more than one complainant or more than one respondent, references in these Grievance Procedures to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable. The grievance procedures applicable to such consolidated Complaints (i.e. the Grievance Procedures for Title IX Sexual Misconduct or the Grievance Procedures for Non-Title IX Sexual Misconduct) will be determined as set forth in Section 1.03 above.

The University may also hear allegations of and impose sanctions for alleged misconduct that arises out of the same facts or circumstances as the Sexual Misconduct at issue, even if such related misconduct is not, when standing alone, governed by this Policy. The grievance procedures applicable to such related misconduct (i.e. the Grievance Procedures for Title IX Sexual Misconduct or the Grievance Procedures for Non-Title IX Sexual Misconduct) will be those that apply to the Sexual Misconduct at issue, as determined as set forth in Section 1.03 above.

Counterclaims and allegations of Retaliation, providing false information, and/or interfering with an investigation, may be adjudicated in the same proceeding as the original Complaint or in a separate proceeding before either the same or a different hearing board.

Section 1.05 Reporting.

For information about seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies, hospitals, and other resources, see Exhibits A and B attached to this Policy.

The University *strongly encourages* all employees and other members of the Furman community to promptly report Sexual Misconduct and Retaliation to the Title IX Coordinator. Any employee who is a Mandated Reporter is required to promptly report to the Title IX Coordinator any allegations of Sexual Misconduct of which they become aware.

Because Sexual Misconduct may in some instances constitute criminal activity in addition to a violation of University policy, and because the University processes are not a substitute for instituting legal action, **the University also encourages individuals to report alleged Sexual Misconduct promptly to law enforcement authorities, where appropriate.**

Individuals also have the option not to report alleged Sexual Misconduct and/or Retaliation at all. The University respects the individual’s decision in regards to reporting; however, subject to the confidentiality provisions outlined in Section 1.08 of this Policy, if information about Sexual Misconduct comes to the

attention of the University, the University may, as described more fully in this Policy, (1) initiate an investigation even if the Complainant does not file a Complaint and/or (2) notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

No member of the University community may discourage an individual from reporting alleged incidents of Sexual Misconduct or Retaliation.

No employee or University-affiliated organization is authorized to investigate or resolve reports of Sexual Misconduct or Retaliation without the approval and involvement of the Title IX Coordinator.

(a) Reporting to the University. Any person (whether or not the person reporting is the Complainant) who wishes to notify the University of concerns regarding Sexual Misconduct (including Sexual Harassment) or Retaliation should report those concerns to the Title IX Coordinator. This report may be made in person, by mail, by telephone, or by electronic mail, using the contact information for the Title IX Coordinator listed on [Exhibit A](#), or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Individuals also may use the online link at www.furman.edu/report-sexual-misconduct to report such concerns. A report may be made at any time (including during non-business hours). If the Title IX Coordinator is the Respondent or is otherwise at issue in a Complaint, or if an individual is otherwise uncomfortable reporting to the Title IX Coordinator, he or she may report alleged Sexual Misconduct or Retaliation to a Deputy Title IX Coordinator.

While other University employees are not designated to receive reports regarding Sexual Misconduct, if an employee who is designated in Section 1.17 as a Mandated Reporter becomes aware of alleged Sexual Misconduct, he or she is required to report those concerns to the Title IX Coordinator. Reporting concerns to the University does not initiate a grievance process unless the Complainant files a Formal Complaint (for Title IX Allegations) or a Complaint (for Non-Title IX Allegations) or the Title IX Coordinator determines that the nature of the information reported warrants the Title IX Coordinator's signing a Formal Complaint or Complaint on behalf of the University.

It is important to understand that individuals who are not Mandated Reporters are not required to report Sexual Misconduct to the Title IX Coordinator (and in some instances, such as is generally the case with Strictly Confidential Resources, are prohibited from doing so absent an express directive from the Complainant). In addition, disclosures of incidents of alleged Sexual Misconduct made by an individual during such individual's participation as a subject in an Institutional Review Board-approved human subjects research protocol (an "Approved Research Project"), even if made to a Mandated Reporter, will not be considered notice to the University of alleged Sexual Misconduct. (More specifically, a Mandated Reporter whose knowledge of a known or suspected incident of Sexual Misconduct is gained as a result of conducting an Approved Research Protocol is not required to report the incident to the Title IX Coordinator.) Institutional Review Boards may, in appropriate cases, require researchers to provide information to all subjects of a study about the subjects' Title IX rights and about available University and community resources and support services with regard to Sexual Misconduct.

(b) Anonymously. Individuals may also file anonymous reports of Sexual Misconduct and/or Retaliation by calling the Campus Conduct Hotline or by submitting an anonymous report to Furman University Police Department through the LiveSafe app or by using the online form at www.furman.edu/report-sexual-misconduct. Individuals who choose to file anonymous reports are advised that it may be very difficult for the University to follow up or take action on anonymous reports, where corroborating information is limited. Reporting concerns to the University does not

initiate a grievance process unless the Complainant files a Formal Complaint (for Title IX Allegations) or a Complaint (for Non-Title IX Allegations) or the Title IX Coordinator determines that the nature of the information reported warrants the Title IX Coordinator's signing a Formal Complaint or Complaint on behalf of the University. Anonymous reports may be used for Clery Act data collection purposes.

(c) Reporting to Local Law Enforcement.

Individuals may file a Complaint directly with local law enforcement agencies by dialing 911.

Individuals may contact any of the following for assistance in filing a Complaint with local law enforcement: (i) the Furman University Police Department, (ii) the Title IX Coordinator, or (iii) the Division of Student Life. (Contact information and hours of operation are set forth on [Exhibit A](#).)

Individuals may inform law enforcement authorities about Sexual Misconduct and discuss the matter with a law enforcement officer without making a University Complaint. Individuals who make a criminal complaint may also choose to pursue a University Complaint simultaneously.

Section 1.06 Period of Limitations.

Allegations of Sexual Misconduct will be investigated as possible and appropriate no matter the length of time since the alleged conduct in question. However, the University strongly encourages prompt reporting to preserve evidence for a potential legal or disciplinary proceeding. Delay may compromise the University's ability to investigate.

Section 1.07 Violations Involving Groups of Individuals.

Members of a student group, an organization, or a team, or individuals collusively acting in concert in violation of this Policy may be investigated as a group and/or as individuals, and an investigation may proceed against the group as joint Respondents or against one or more involved individuals as appropriate given the available information and the circumstances.

A student group, an organization, or a team's leaders, officers, and/or members may be held collectively and individually responsible when Sexual Misconduct by the organization or its members: (1) occurred at organization-sponsored events; (2) received the consent or encouragement of the organization or of the organization's leaders, officers, and/or members; or (3) was known or reasonably should have been known to the leaders, officers, and/or members.

In any such action, individual determinations as to responsibility will be made, and sanctions may be assigned collectively and/or individually in proportion to the involvement of each individual.

Section 1.08 Confidentiality.

(a) Confidentiality in Reporting and Disclosure. The University encourages people who have experienced Sexual Misconduct to talk to someone about what happened, both so that they can get the support they need and so that the University can respond appropriately. The University wants individuals to be aware of the various reporting and confidential disclosure options available to them so that they can make informed choices.

Individuals may discuss alleged Sexual Misconduct in strict confidence with Strictly Confidential Resources. Personally Identifiable Information shared with Strictly Confidential Resources typically

will not be reported to other University personnel (including the Title IX Coordinator), to the Respondent, or to others (unless the disclosing individual gives his or her consent to the disclosure or the law requires it (as may be the case with alleged Sexual Misconduct involving abuse of a minor or under conditions involving imminent physical harm, for example)).

Strictly Confidential Resources are not Mandated Reporters, and therefore, are not required to (and will not, absent direction from the disclosing individual to do so) report incidents of alleged Sexual Misconduct to the Title IX Coordinator. Note that these individuals are only confidential resources when they are serving in these designated roles. For example, if an individual who is a Strictly Confidential Resource also serves as a faculty member, that individual is a Mandated Reporter when serving as a faculty member. Strictly Confidential Resources may report non-identifying statistical information to the University.

For purposes of clarity, University employees who are not Strictly Confidential Resources are not able to promise other members of the Furman community confidentiality with regard to situations involving, or conversations regarding, Sexual Misconduct. Anyone who wishes to initiate a grievance process should file a written Formal Complaint (for Title IX Allegations) or a Complaint (for Non-Title IX Allegations) with the Title IX Coordinator.

(b) Confidentiality in the Investigation and Resolution Processes.

(i) Sharing of Information by the University.

- (1)** The University will keep confidential the identity of any individual who has made a report or Complaint of Sexual Misconduct, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of Sexual Misconduct, any Respondent, and any witness, except as may be permitted by FERPA, as required by law, or in order to effectuate Title IX and the provisions of this Policy, including the conduct of any investigation, hearing, or judicial proceeding arising hereunder.
- (2)** Information regarding alleged Sexual Misconduct will not generally be disclosed by University personnel to individuals not involved in or for purposes unrelated to the investigation and resolution processes. University personnel, however, will (and are obligated to) handle information regarding alleged Sexual Misconduct in accordance with applicable local, state, and federal laws. For example, under conditions of potential imminent harm to the community, the University may be required by federal law to inform the community of the occurrence of the alleged incident(s) of Sexual Misconduct. Additionally, information regarding alleged Sexual Misconduct may be used as a statistical, anonymous report for data collection purposes under the Clery Act. And the University may be required by state law to inform the South Carolina State Law Enforcement Division of the occurrence of the alleged incident(s) of Sexual Misconduct. Also, University personnel may report alleged Sexual Misconduct to local law enforcement if warranted by the nature of the allegations at issue, and University administrators will share information regarding alleged Sexual Misconduct, as appropriate and necessary, in order to address and resolve the allegation(s) at issue, prevent the recurrence of similar Sexual Misconduct, and address the effects of the Sexual Misconduct.

(3) The University may notify parent(s) or guardian(s) of a student Respondent of the outcome of any investigation involving that Respondent, redacting names of any other students who do not consent to the disclosure of their information.

(ii) **Sharing of Information by Others.** To comply with FERPA, Title IX, and other applicable laws and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, matters carried out under this Policy are not open to the general public. Accordingly, documents prepared in connection with this Policy; documents, statements, or other information introduced in interviews, meetings, and proceedings; and the final outcome letter may not be disclosed except as provided by this Policy or as may be required or authorized by law. While the University's communications will be directly with the Complainant and the Respondent, at the written request of a party, the University may include an advisor on communications and share access to documents, including the investigation report; this access is subject to the advisor's acknowledgment and agreement to maintain the confidentiality of the documents. For the avoidance of doubt, while the University strongly encourages parties to maintain privacy in these proceedings, the University does not prohibit parties from discussing the allegations under investigation or in any way inhibit the parties from gathering or presenting relevant evidence. In addition, University policy does not prohibit the further disclosure of the final outcome letter by either the Complainant or the Respondent.

(c) **Mandatory Reporting of Child Abuse.**

(i) **To the University.** All University employees and volunteers are required to report known or suspected Sexual Misconduct or any other abuse involving children (i.e., individuals under the age of 18) to the Chief of Police, regardless of the identity of the suspected perpetrator.

(ii) **To the Department of Social Services or Law Enforcement.** Certain University employees (those identified in S.C. Code § 63-7-310(A)) are also required by state law to report to either the Department of Social Services (when the alleged perpetrator is the child's parent, guardian, or other person responsible for the child) or to local law enforcement in the county where the child resides or is found (when the alleged perpetrator is someone other than the child's parent, guardian, or other person responsible for the child) when, in their professional capacity, they receive information giving them reason to believe that a child has been or may be abused or neglected (as defined in S.C. Code § 63-7-20). All University employees are expected to know and abide by state laws applicable to child protection, including those set forth in Title 63 of the South Carolina Code; this subsection restates only a small portion of such laws.

Section 1.09 Effect of Respondent Withdrawal.

At the discretion of the University, a Respondent who withdraws from the University during the pendency of grievance procedures under this Policy may be barred from University property, activities, and events and may be ineligible for re-enrollment or to be re-hired.

Section 1.10 Objectivity, Conflicts of Interest, and Bias.

All relevant evidence, including both inculpatory and exculpatory evidence, will be objectively evaluated, and credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. Respondents are presumed to be not responsible for alleged Sexual Misconduct until the University makes a

determination regarding responsibility pursuant to the applicable grievance procedures. Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate a matter is determinative of whether Sexual Misconduct has occurred.

The University requires that, and will take steps to ensure that, any individual who serves as a Title IX Coordinator, investigator, decision-maker, or alternative resolution facilitator under this Policy does not have a conflict of interest or bias for or against Complainants or Respondents generally or against an individual Complainant or Respondent.

If any employee designated to participate in the investigation or resolution of a Complaint is the Respondent, then the Title IX Coordinator will appoint another administrator to perform such person's duties. (If the Title IX Coordinator is the Respondent, then the President will appoint another University employee to perform his or her duties.)

Section 1.11 Burden of Proof.

At all times, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University, not on either of the parties; provided, however, that this section may not be construed to trump the restrictions on the University's access to and consideration, disclosure, or use of Treatment Records as set forth in Section 2.04(f)(v) or Section 3.04(f)(v).

Section 1.12 Timing.

The University will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs, as appropriate and pursuant to the applicable grievance procedures, in as timely and efficient a manner as possible. The timelines set forth in the grievance procedures found in this Policy are guidelines and may be altered (including a temporary delay of the applicable grievance procedures or the limited extension of time frames set forth in the Policy) for good cause with written notice to the Complainant and the Respondent of any delay or extension and the reasons therefor. "Good cause" for purposes of this Section 1.12 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 disabilities; the complexity of the case; or school breaks.

The University will strive to complete its investigation and resolution of a Complaint (not including an appeal, if applicable) within 90 calendar days of receipt, absent extenuating circumstances. Hearings, if any, generally will take place within 30 calendar days of the conclusion of the investigation. If a hearing has taken place, both the Complainant and the Respondent will receive a final outcome letter within approximately 10 calendar days of the conclusion of the hearing.

Any party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request.

Section 1.13 Amnesty.

The University considers the reporting and adjudication of Sexual Misconduct to be of paramount importance. The University does not condone underage drinking or use of illegal drugs; however, the University may extend amnesty from punitive sanctioning for the illegal use of drugs and/or alcohol to Complainants, witnesses, others involved in the grievance procedures set forth in this Policy, and those assisting a potential victim of Sexual Misconduct when evidence of such use is discovered or submitted as

part of the grievance procedures set forth in this Policy or while individuals are assisting a potential victim. Similarly, the University may, in its discretion, provide amnesty for other minor conduct code violations that are discovered in connection with the grievance procedures set forth in this Policy.

Section 1.14 Academic Freedom.

Furman affirms its commitment to academic freedom but notes that academic freedom does not allow any form of Sexual Misconduct. Furman recognizes that an essential function of education is a probing of opinions and an exploration of ideas, some of which, because they are controversial, may cause students and others discomfort. This discomfort, as a product of free academic inquiry within a faculty member's area(s) of expertise, shall not in and of itself be considered or construed to constitute Sexual Misconduct. Academic inquiry may involve teaching, research and extramural speech. Furthermore, nothing in this Policy shall be interpreted to prohibit bona fide academic requirements for a specific University program, course, or activity. When investigating Complaints that a party or the Title IX Coordinator believes may involve issues of academic freedom, the Title IX Coordinator will consult with the Dean of Faculty with respect to contemporary academic practices and standards.

Section 1.15 Individuals with Disabilities.

The University will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the steps and procedures outlined in this Policy. Student requests for accommodations must be made to the **Student Office for Accessibility Resources** (located in the lower level of Hipp Hall in Suite 011 and available from 8:00 a.m. until 4:30 p.m.). All other requests for accommodations must be made to the **Office of Human Resources** (the contact information for which is set forth on [Exhibit A](#)).

Section 1.16 Recordkeeping.

The University will retain documentation and records received in connection with or created pursuant to this Policy for seven years from the date of the Complainant's or the Respondent's graduation, whichever is later (or, if the Complainant and the Respondent do not graduate, for a minimum of seven years). Such documentation and records include but are not limited to the Complaint; records of actions, including Supportive Measures, taken in response to the Complaint and the rationale therefor (or, if Supportive Measures are not provided, the rationale therefor); the investigative report; audio or audiovisual recordings; transcripts; written findings of fact; petitions for appeal; notifications of decisions (including the final outcome letter and any appeal outcome letter); documentation from alternative resolution proceedings and the result therefrom; written communications; and applicable training materials.

Subject to the provisions of the prior paragraph, a resolution reached through the alternative resolution process will not be reportable as a disciplinary record, unless such reporting is agreed to as part of the alternative resolution of the matter.

Section 1.17 Definitions Applicable to the Policy.

Capitalized terms used in this Policy are defined as follows:

- (a) **"Actual Knowledge"** means notice of Title IX Allegations to the Title IX Coordinator, a Deputy Title IX Coordinator, the President, a Vice President, the Dean of Faculty, the Dean of Students, or the Assistant Vice President for Human Resources.

Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute Actual Knowledge. This standard is not met when the only individual with Actual Knowledge is the Respondent. The mere ability or obligation to report Sexual Misconduct or to inform a student about how to report Sexual Misconduct, or having been trained to do so, does not qualify an individual as one to whom notice of Title IX Allegations constitutes Actual Notice.

- (b) The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “**Clery Act**”) is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. § 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.
- (c) “**Complainant**” means an individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct, including Sexual Harassment.
- (d) “**Complaint**” means an allegation or allegations of Sexual Misconduct (which, for the avoidance of doubt, may include Title IX Allegations and/or Non-Title IX Allegations) asserted against a Respondent and requesting that the University investigate the allegation(s), including but not limited to a Formal Complaint.
- (e) “**Consent**” is informed, freely and actively given, mutually understandable words or actions that indicate a willingness to participate in mutually agreed-upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a clear and unambiguous agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

Consent cannot be inferred from any of the following: silence, passivity, or lack of resistance alone; a current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else); attire; the buying of dinner or the spending of money on a date; or Consent previously given (i.e., Consent to one sexual act does not imply Consent to another sexual act).

Consent is not effective if it is obtained through the use of physical force, violence, duress, deception, intimidation, coercion, or the threat, expressed or implied, of bodily injury. Whether a party used any of these means to obtain Consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by: minors, even if the other participant did not know the minor’s age; mentally disabled persons, if their disability was reasonably knowable to a sexual partner who is not mentally disabled; or persons who are Incapacitated. The use of alcohol or drugs does not diminish one’s responsibility to obtain Consent and does not excuse conduct that constitutes Sexual Misconduct.

If at any time during a sexual act any confusion or ambiguity is or should reasonably be apparent on the issue of Consent, it is incumbent upon each individual involved in the activity to stop and clarify the other’s willingness to continue and capacity to Consent. Neither party should make assumptions about the other’s willingness to continue or capacity to Consent.

- (f) “**Dating Violence**” means violence committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (ii) where the existence of such a relationship shall be determined based on a consideration of the following factors: (A) the length of

the relationship; (B) the type of relationship; and (C) the frequency of interaction between the persons involved in the relationship.

- (g) **“Domestic Violence”** means 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 the jurisdiction receiving grant monies, 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 the jurisdiction.
- (h) **The University’s “Deputy Title IX Coordinators” are:**
 - (i) Jason Cassidy, Associate Vice President for Student Life and Dean of Students.
 - (ii) Stephanie Boyd, Assistant Dean of Students/Alcohol and Drug Education Coordinator.
 - (iii) Rachael Simpson, Assistant Athletic Director/Compliance & Student-Athlete Development.
 - (iv) Kristen Davis, Employee Relations Manager.

The Deputy Title IX Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of Sexual Misconduct Complaints, and the Title IX Coordinator may, at his or her discretion, assign a Deputy Title IX Coordinator to serve in his or her place in connection with a given Complaint. Contact information for the Deputy Title IX Coordinators is set forth on page 1 of this Policy.

- (i) **“Education Program or Activity”** includes locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- (j) **“Education Record”** has the meaning given to it under FERPA.
- (k) **“FERPA”** is the Family Educational Rights and Privacy Act, a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 C.F.R. § 99. FERPA protects the privacy of student Education Records. FERPA grants to eligible students the right to access, inspect, and review Education Records, the right to challenge the content of Education Records, and the right to consent to the disclosure of Education Records.
- (l) **“Formal Complaint”** means a Complaint alleging Title IX Allegations against a Respondent and requesting that the University investigate the Title IX Allegations that is either (i) a document or an electronic submission (such as by electronic mail or through an online portal provided by the University) (A) that contains the Complainant’s physical or digital signature or otherwise indicates that the Complainant is the person filing the Formal Complaint and (B) that is filed by a Complainant who is, at the time of filing, participating in or attempting to participate in the University’s Education Program or Activity or (ii) a document signed by the Title IX Coordinator.
- (m) **“Grievance Procedures for Non-Title IX Sexual Misconduct”** means Part III of this Policy.
- (n) **“Grievance Procedures for Title IX Sexual Misconduct”** means Part II of this Policy.

- (o) **“Hostile Environment Sexual Harassment”** means unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s Education Program or Activity.
- (p) **“Incapacitated”** means lacking the physical and/or mental ability to make informed, rational judgments. A person may be Incapacitated for a variety of reasons, including but not limited to being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.
- (q) **“Mandated Reporters”** are the following employees who are obligated to report to the Title IX Coordinator any allegations of Sexual Misconduct of which they become aware:
- (i) All Vice Presidents, Assistant Vice Presidents, Associate Vice Presidents, Provosts, Associate Provosts, Deans, Associate and Assistant Deans, Department Chairs, Directors, and Coaches and Assistant Coaches;
 - (ii) All Deputy Title IX Coordinators;
 - (iii) All Human Resources staff;
 - (iv) All Student Life staff (including, for purposes of clarity, Resident Assistants and First-Year Advisors (FRADs));
 - (v) All employees serving in a supervisory or management role (including, for purposes of clarity, all employees who supervise activities or programs that involve direct contact with students, such as advisors to recognized student organizations);
 - (vi) All members of the faculty; and
 - (vii) All Furman University Police Officers and contracted security personnel.
- (r) **“Non-Title IX Allegations”** means allegations of Sexual Misconduct other than Title IX Allegations.
- (s) **“Personally Identifiable Information”** has the meaning given to it under FERPA.
- (t) **“Policy”** means this Sexual Misconduct Policy.
- (u) **“Quid Pro Quo Sexual Harassment”** means the conditioning by a University employee of the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct.
- (v) **“Respondent”** means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct, including Sexual Harassment.
- (w) **“Retaliation”** means any adverse action, including direct and indirect intimidation, threats, coercion, discrimination, or harassment (including charges against an individual for conduct violations that do not involve Sexual Misconduct but that arise out of the same facts or circumstances as a report or Complaint of Sexual Misconduct), threatened or taken against a person (i) for the purpose of interfering with any right or privilege secured by Title IX or this Policy or (ii) because the person 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 Policy. Retaliation does not include (a) charging

an individual with making a materially false statement in bad faith in the course of a proceeding pursuant to Part II or Part III of this Policy (provided, however, that a determination regarding responsibility alone is not sufficient to conclude that an individual made a materially false statement in bad faith) or (b) good faith actions lawfully pursued in response to a report of prohibited conduct.

(x) **“Sexual Assault”** means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. As of the effective date of this Policy, those offenses are defined as follows:

(i) Forcible sex offense: any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

(1) Forcible rape (except statutory rape (defined in Section 1.17(x)(ii)(2) below)) — the carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

(2) Forcible sodomy — oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

(3) Sexual assault with an object — to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

(4) Forcible fondling — the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

(ii) Nonforcible sex offense: unlawful, nonforcible sexual intercourse.

(1) Incest — nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(2) Statutory rape — nonforcible sexual intercourse with a person who is under the statutory age of consent.

(y) **“Sexual Exploitation”** means any act of taking non-Consensual, unjust or abusive sexual advantage of another person for one’s own advantage or benefit or to benefit or advantage anyone other than the person being exploited. Sexual Exploitation includes, but is not limited to

(i) Causing or attempting to cause another person to be Incapacitated in order to gain a sexual advantage over such person;

(ii) Prostituting another person (i.e., promoting the sexual activities of another for anything of value (e.g., money, privilege, or power));

- (iii) Non-Consensual videotaping, photographing, or audio-taping of sexual activity and/or distribution of private sexual activity or a person's intimate parts (including genitalia, groin, breast or buttocks) without consent via media such as, but not limited to, the Internet;
 - (iv) Exceeding the boundaries of Consent (e.g., allowing another person to observe Consensual sex without the knowledge of or Consent from all participants);
 - (v) Voyeurism; and
 - (vi) Knowingly or recklessly transmitting a sexually transmitted disease (including HIV) to another individual.
- (z) **“Sexual Harassment”** means conduct on the basis of sex that satisfies one or more of the following:
- (i) Quid Pro Quo Sexual Harassment,
 - (ii) Hostile Environment Sexual Harassment,
 - (iii) Sexual Assault,
 - (iv) Dating Violence,
 - (v) Domestic Violence, or
 - (vi) Stalking.
- (aa) **“Sexual Intimidation”** includes but is not limited to:
- (i) Threatening, expressly or impliedly, to commit a sexual act upon another person without his or her Consent, and
 - (ii) Engaging in indecent exposure (intentionally exposing one's sexual organs in public) with the intention of alarming, distressing, and/or offending others.
- (bb) **“Sexual Misconduct”** means an act or conduct of a sexual nature perpetrated against an individual without Consent. Sexual Misconduct includes but is not limited to:
- (i) Dating Violence;
 - (ii) Domestic Violence;
 - (iii) Sexual Assault
 - (iv) Sexual Exploitation;
 - (v) Sexual Harassment;
 - (vi) Sexual Intimidation;
 - (vii) Stalking;

- (viii) Unwelcome Sexual Conduct.
- (cc) **“Stalking”** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress.
- (dd) **“Strictly Confidential Resources”** is defined as follows:
- (i) University employees in the following offices are Strictly Confidential Resources for Students: the Counseling Center, the Office of Spiritual Life, and the Earle Student Health Center.
 - (ii) University employees in the following offices are Strictly Confidential Resources for faculty and staff: the Office of Spiritual Life, the Employee Wellness Clinic, and the faculty and staff ombudspersons: Dr. Victoria Turgeon and Dr. Joe Pollard (faculty); Dr. Gary Clark (staff).
- (ee) **“Supportive Measures”** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent that are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party. Supportive Measures may be available before or after the filing of a Complaint or where no Complaint has been filed. Supportive Measures include measures designed to protect the safety of all parties or the University’s educational environment or deter Sexual Misconduct. Supportive measures may include counseling services, extensions of deadlines or other course-related adjustments (such as rescheduling class work, assignments, and examinations; arranging for a party to withdraw from or take an incomplete in a course without penalty; or arranging for alternative course completion options), academic support services, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties (i.e., no-contact orders), changes in work or housing locations, leaves of absence, and increased security and monitoring of certain areas of the campus.
- (ff) **“Title IX”** has the meaning given to it in Section 1.01.
- (gg) **“Title IX Allegations”** means allegations of Sexual Harassment occurring (1) in Furman’s Education Program or Activity and (2) in the United States.
- (hh) **“Treatment Records”** means records that are maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in their professional or paraprofessional capacity, or assisting in that capacity, and which are maintained in connection with the provision of treatment to the party.
- (ii) **“Unwelcome Sexual Conduct”** means unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, graphic, or physical conduct of a sexual nature when (i) such conduct does not constitute Sexual Harassment and (ii) either (1) or (2) below applies:
- (1) Submission to, consent to, or rejection of the behavior carries or is reasonably believed to carry consequences for the individual’s education, employment, on-campus living environment, or participation in a University activity. Examples of this type of Unwelcome Sexual Conduct include:
 - (A) pressuring an individual to engage in sexual behavior for some educational or employment benefit, or
 - (B) making a real or perceived threat that rejecting sexual behavior will carry a negative

educational or employment consequence for the individual.

- (2)** The behavior is both (i) severe, persistent, or pervasive and (ii) objectively offensive, such that it unreasonably limits or interferes with the individual's ability to participate in or benefit from the University's education, on-campus living, or employment programs or activities by creating an intimidating, hostile, offensive, or demeaning environment. Whether the conduct creates an intimidating, hostile, offensive, or demeaning environment may depend on a variety of factors, including: the degree to which the conduct affected the education or employment of another person; the type, frequency and duration of the conduct; the relationship between the parties; the number of people involved; and the context in which the conduct occurred. The more severe the conduct, the less need there is to show a repeated pattern of conduct. Examples of this type of Unwelcome Sexual Conduct include:
- persistent unwelcome efforts to develop a romantic or sexual relationship;
 - unwelcome sexual advances or requests for sexual favors;
 - unwelcome commentary about an individual's body or sexual activities;
 - inappropriately touching an individual's body;
 - unwelcome sexually oriented teasing, joking, flirting, or lewd comments, innuendos, or gestures; and
 - verbal abuse of a sexual nature.

PART II. GRIEVANCE PROCEDURES FOR TITLE IX SEXUAL MISCONDUCT

Section 2.01 General Provisions.

- (a) **Applicability of these Grievance Procedures.** When the University has Actual Knowledge of Title IX Allegations, it will respond by following the requirements of Title IX, which are addressed and incorporated in these Grievance Procedures for Title IX Sexual Misconduct.
- (b) **Advisors.** Both the Complainant and the Respondent may be accompanied to any meeting or proceeding under these Grievance Procedures for Title IX Sexual Misconduct (e.g., related prehearing meetings, investigative interviews, and the hearing or alternative resolution meeting) by the advisor of their choice. Advisors may be friends, victim advocates, lawyers, or others. The Complainant and the Respondent may consult with their respective advisors during meetings or proceedings. Advisors may not, however, disrupt or speak on behalf of a Complainant or Respondent during any such meeting or proceeding, with the exception of the advisor's conducting cross-examination during a hearing under these Grievance Procedures for Title IX Sexual Misconduct, as set forth in Section 2.04(g)(iii). Advisors are expected to acknowledge and agree to maintain the confidentiality of all documents to which they are provided access pursuant to this Policy.

If a party does not have an advisor present at the hearing, the University will provide one selected by the University without fee or charge to that party to conduct cross-examination on behalf of that party.

Absent accommodation for disability, the Complainant and the Respondent may not be accompanied by more than one advisor or by other individuals during meetings.

Section 2.02 Complaint Intake.

- (a) **Receipt of Allegations and Initial Outreach to Complainant.** Promptly upon receiving Title IX Allegations, the Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures (including informing the Complainant that Supportive Measures are available with or without the filing of a Formal Complaint) and to discuss the allegations and avenues for their resolution (including explaining to the Complainant the process for filing a Formal Complaint).
- (b) **Evaluation of Supportive Measures, Interim Emergency Removal/Administrative Leave.**
- (i) **Supportive Measures.** Following the receipt of Title IX Allegations (and at any point during the resolution process set forth in these Grievance Procedures for Title IX Sexual Misconduct if the Title IX Coordinator deems it necessary for the protection of any member of the University community), the Title IX Coordinator will determine which, if any, Supportive Measures will be provided to the Complainant and/or the Respondent. The Title IX Coordinator will consider both the Complainant's wishes with respect to the provision of Supportive Measures to the Complainant and the Respondent's wishes with respect to the provision of Supportive Measures to the Respondent.

The Title IX Coordinator will notify the Complainant and/or the Respondent, as applicable, of the Supportive Measures to be provided. The University will maintain as confidential any

Supportive Measures provided to the Complainant or Respondent to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

(ii) Interim Emergency Actions.

(1) Student Respondents. When the Title IX Coordinator has made an individualized safety and risk analysis and determined that an immediate threat to the physical health or safety of any student or other individual arising from the Title IX Allegations justifies such action, the Title IX Coordinator may request that the Dean of Students or his or her designee, on an emergency interim basis during the pendency of the resolution process set forth in these Grievance Procedures for Title IX Sexual Misconduct impose on the Respondent an administrative withdrawal from the University; summarily suspend the Respondent from campus housing; temporarily adjust the job duties of a student-employee Respondent or place such student-employee Respondent on paid administrative leave; or take such steps as are reasonable, appropriate, and necessary to restrict the Respondent's access to University facilities. The Title IX Coordinator will notify the Respondent of the emergency interim measure(s) in writing. These actions may be appealed to the Vice President for Student Life or his or her designee by requesting a "show cause" hearing in writing within 72 hours of receipt of the notice outlining the decision. The hearing will provide the student with the opportunity to demonstrate why the interim action should not take place. The "show cause" hearing will take place within 72 hours of receipt of the request. The decision of the Vice President for Student Life regarding the imposition of these actions will be final.

(2) Non-student Employee Respondents. When a non-student employee Respondent's alleged actions or behaviors affect the safety, health, or general welfare of the Complainant, students, other employees, and/or the University community, the Title IX Coordinator may request that the individual authorized to make personnel decisions regarding the employee at issue (A) take such steps as are reasonable, appropriate, and necessary to restrict the Respondent's access to University facilities or (B) temporarily adjust the job duties of or place on administrative leave such Respondent during the pendency of the resolution process set forth in these Grievance Procedures for Title IX Sexual Misconduct. The Title IX Coordinator will notify the Respondent of the emergency interim measure(s) in writing. These actions may be appealed to the Assistant Vice President of Human Resources for decisions regarding Furman staff members and to the Dean of Faculty for decisions regarding Furman faculty members. The decision of the Assistant Vice President of Human Resources or Dean of Faculty regarding the imposition of these actions will be final.

(c) Filing of a Formal Complaint.

(i) By the Complainant. Following the Title IX Coordinator's initial outreach to the Complainant as set forth in Section 2.02(a) above, the Complainant may file a Formal Complaint. A Formal Complaint must meet the requirements set forth in Section 1.17(l). A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed on [Exhibit A](#).

(ii) By the Title IX Coordinator. When the Title IX Coordinator believes that, with or without the Complainant's desire to participate in a grievance process, a non-deliberately indifferent response to the allegations requires an investigation, the Title IX Coordinator has the discretion to initiate the grievance process by signing a Formal Complaint. In determining whether circumstances warrant such action, the University may consider the following factors:

- 1) the seriousness of the alleged Sexual Misconduct (including, but not limited to, whether the Sexual Misconduct was perpetrated with a weapon);
- 2) the increased risk that the alleged perpetrator will commit additional acts of Sexual Misconduct, such as (A) whether there have been other reports or complaints against the alleged perpetrator, (B) whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of Sexual Misconduct or a history of violence, (C) whether the alleged perpetrator threatened further Sexual Misconduct or threatened violence against the Complainant or others, or (D) whether the Sexual Misconduct was alleged to have been committed by multiple perpetrators;
- 3) whether the information reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group or person;
- 4) whether the alleged perpetrator is an employee of the University and/or holds a position that could place community members at risk; and
- 5) whether the alleged victim is a minor.

The presence of one or more of these factors or other factors impacting the safety of the University community may lead the Title IX Coordinator to initiate the grievance process by signing a Formal Complaint. In the absence of any factors that indicate an ongoing safety concern for the University community, the Title IX Coordinator generally will not initiate a Formal Complaint, and the University will proceed with the grievance process when and if the Complainant files a Formal Complaint.

Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under these Grievance Procedures for Title IX Sexual Misconduct. Furthermore, initiation of a Formal Complaint by the Title IX Coordinator is not sufficient alone to imply bias or that the Title IX Coordinator is taking a position adverse to the Respondent.

(d) Notice of Allegations. Upon receipt of a Formal Complaint, the Title IX Coordinator will provide the following written notice of allegations to the Complainant and the Respondent, if known: (1) notice of these Grievance Procedures for Title IX Sexual Misconduct; and (2) notice of the allegations of conduct potentially constituting Sexual Harassment, which will include sufficient details known at the time the notice is given (e.g., the identities of the parties involved in the incident, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident) and which will be given with sufficient time to prepare a response before any initial interview.

In addition, if, in the course of the investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in this initial notice, the Title IX Coordinator will provide notice of the additional allegations to the Complainant and the Respondent, if known.

(e) Dismissal.

(i) Mandatory Dismissal. The University will dismiss any Formal Complaint (or portion thereof) that does not meet the requirements of a Formal Complaint (as set forth in Section 1.17(l)); that is, if:

- (1)** the conduct alleged in the Formal Complaint, even if proved, would not constitute Sexual Harassment;
- (2)** at the time of filing the Formal Complaint, the Complainant was not participating in or attempting to participate in the University's Education Program or Activity;
- (3)** the conduct alleged in the Formal Complaint did not occur in the University's Education Program or Activity; or
- (4)** the conduct alleged in the Formal Complaint did not occur against a person in the United States.

(ii) Permissive Dismissal. Additionally, the University may dismiss a Formal Complaint or any allegations therein if:

- (1)** the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- (2)** the Respondent is no longer enrolled or employed at the University; or
- (3)** specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

(iii) Notice of Dismissal. In the event the University determines that dismissal of the Formal Complaint or a portion of the allegations therein is appropriate, the Title IX Coordinator will promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

(iv) Appeal of Dismissal. Either party may appeal the decision to dismiss the Formal Complaint or any of the allegations therein on the following grounds by submitting a written appeal to the Title IX Coordinator within five calendar days of the issuance of the written notice of the dismissal:

- (1)** a procedural irregularity affected the decision to dismiss;
- (2)** new evidence is available that was not reasonably available at the time the determination regarding dismissal was made that could affect the outcome of the matter; or
- (3)** the Title IX Coordinator or other individual with a decision-making role in the dismissal has a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the decision to dismiss.

The Title IX Coordinator will promptly notify the other party of the filing of the appeal. If the non-appealing party wishes to submit a response to the appeal (whether in support of or challenging the dismissal), he or she must do so in writing to the Title IX Coordinator within three calendar days of notification of the filing of the appeal.

The Title IX Coordinator will forward the decision regarding the dismissal, any information upon which the dismissal decision was made, the appeal, and any response to the following administrator: the Vice President for Student Life (when the Respondent is a student), the Dean of Faculty (when the Respondent is a faculty member) or the Assistant Vice President for Human Resources (when the Respondent is a staff member). This appeals officer will issue a written decision describing the result of the appeal (which may include determining that the dismissal should stand or should be overturned) and the rationale for the result and will provide such written decision simultaneously to both parties. The decision by the appeals officer is final.

- (v) **Effect of Dismissal.** Dismissal under this Section 2.02(e) does not impair the University's ability to proceed with any appropriate charges for the alleged conduct, including under another University policy or procedure, and/or to provide Supportive Measures to the parties. More specifically, a Formal Complaint that is dismissed pursuant to Section 2.02(e) will still be treated as a Complaint and addressed either pursuant to these Grievance Procedures for Title IX Sexual Misconduct or the Grievance Procedures for Non-Title IX Sexual Misconduct, as applicable pursuant to Section 1.03.

Section 2.03 The Investigation.

The University will investigate the allegations in a Formal Complaint.

- (a) **Appointment of Investigators.** Unless a Formal Complaint is dismissed pursuant to these Grievance Procedures or the parties elect to participate in alternative resolution, the Title IX Coordinator will promptly appoint two investigators who will serve as neutral fact-gatherers to investigate the Formal Complaint. These investigators may be University employees, non-employee outside investigators, or a combination of the two. The Title IX Coordinator will share their names and contact information with the Complainant and the Respondent and will forward the Formal Complaint to the investigators.

Within two business days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest posed by assigning those particular investigators to the matter. The Title IX Coordinator will carefully consider such statements and will promptly assign different individuals as investigators if the Title IX Coordinator determines that a material conflict of interest exists.

- (b) **The Investigators' Activities.** Upon receipt of the Formal Complaint, the investigators will promptly begin their investigation, taking such steps as conducting interviews with the Complainant, the Respondent, and third-party witnesses (including expert witnesses, where applicable) and either recording and having interviews transcribed or summarizing such interviews in written form; visiting, inspecting, and taking or reviewing photographs at relevant sites, where applicable; and collecting and preserving relevant evidence, where applicable (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies). The Complainant and the Respondent will both have the opportunity to present both inculpatory and exculpatory evidence and to present both fact and expert witnesses to be interviewed by the investigators.
- (c) **Submission of Evidence and Identification of Witnesses.** Any evidence that the parties wish the hearing board to consider should be presented to the investigators as early as possible during the investigation. Any such evidence will be made available to the other party and their advisor, as well

as to any expert witness the other party has identified. Evidence that is not submitted in a timely manner during the course of the investigation and prior to finalization of the investigative report may be excluded from the hearing at the discretion of the hearing board.

Similarly, all witnesses should be identified to the investigators as early as possible during the investigation. Any party who wishes to present testimony from a witness should identify that witness by providing the witness's name, contact information, and a summary of any opinions the witness expects to offer related to the allegations or evidence, as well as, in the case of expert witnesses, the witness's qualifications to offer expert testimony. Parties must make any expert witnesses available to be interviewed by investigators. Any evidence upon which a witness relies must be provided to the investigators and will be made available to the other party and their advisor, as well as to any expert witness the other party has identified to the extent that such evidence is relevant to the expert witness's testimony. This information must be provided as early as possible in the investigation and in no event later than finalization of the investigative report. The hearing board generally will not call or consider written statements from witnesses who were not identified to investigators and interviewed during the investigation; however, the hearing board may, in its discretion and for good cause, choose to consider information from witnesses who were not interviewed during the investigation. Witnesses must be available to testify at the hearing; if a witness does not submit to cross-examination at the hearing, the hearing board will not rely on any statement of that witness in reaching a determination regarding responsibility.

- (d) The Investigative Report and Evidence Review.** The investigators will create a written investigative report that fairly summarizes relevant evidence and includes items such as the Formal Complaint, any written statements of position, summaries or transcripts of all interviews conducted, photographs, descriptions of relevant evidence, summaries or copies of relevant electronic records, and a detailed report of the events in question.

Prior to the completion of the investigative report, the investigators will provide each party and each party's advisor the opportunity to inspect and review any evidence obtained during the investigation that is directly related to the allegations raised in the Formal Complaint, including (i) any evidence upon which the University does not intend to rely in reaching a determination regarding responsibility; and (ii) both inculpatory and exculpatory evidence (i.e. evidence that tends to show responsibility and tends to show absence of responsibility) whether obtained from the Complainant, the Respondent, or another source. The University may deliver the evidence to the parties and their advisors in either electronic format or in hard copy.

The Complainant and the Respondent will have ten calendar days to submit to the investigators a written response to the evidence provided for review and inspection. In this response, the parties may address the relevancy of any evidence that the parties believe should be included in or excluded from the investigative report and any further investigation activities or questions that they believe are necessary for a thorough investigation. If a party wishes to submit new evidence in connection with his or her written response, he or she should include with it an explanation of the relevance of the evidence and the reason the evidence was not previously provided to the investigators. The investigators will share each written response with the other party.

The investigators will review the parties' written response(s), conduct additional investigative activities as appropriate, and consider the parties' written response(s) prior to completing the investigative report.

At least ten calendar days prior to the hearing, the investigators will make the final investigative report available to the Title IX Coordinator as well as to both the parties and their advisors for their review. The investigators may deliver the evidence to the parties and their advisors in either electronic format or in hard copy.

The Complainant and the Respondent will have seven calendar days to submit to the Title IX Coordinator a written response to the investigative report. In this response, the parties may address the relevance of any evidence that the parties believe should have been included in or excluded from the investigative report and may include a written statement of position. The Title IX Coordinator will share each written response with the other party.

Due to the sensitive nature of the information in the investigative report, neither the parties nor their advisors may copy, remove, photograph, print, image, record or in any other manner duplicate or remove the information provided (even after the resolution of the Formal Complaint). Parties who violate these restrictions may be disciplined, and advisors who violate these restrictions may be disciplined and be barred from further participation in the process.

- (e) **Notice of Charges.** The Title IX Coordinator will review the investigative report and send both parties a notice of charges that specifies the allegations that will proceed through a formal resolution process.

Section 2.04 The Hearing.

- (a) **Respondent's Acknowledgement of Responsibility.** At any time prior to the hearing, the Respondent may elect to accept responsibility for the alleged Sexual Misconduct. In such a situation, the Title IX Coordinator will propose sanction(s) for the Respondent. If the Complainant and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without a hearing and without any further rights of appeal by any party.

If either the Complainant or the Respondent objects to such proposed sanction(s), then a hearing board will convene for the exclusive purpose of determining a sanction. The sanction(s) determination may be appealed pursuant to Section 2.05.

- (b) **The Formal Resolution Process.** Unless a Formal Complaint is dismissed pursuant to Section 2.02(e) above or the parties elect to participate in alternative resolution, following the investigation a hearing board will conduct a hearing in which it may question the Complainant, the Respondent, and witnesses as set forth below. During the hearing, the advisors for the Complainant and the Respondent may also question the investigators, witnesses, and the other party as necessary to clarify information provided in the investigative report. The Title IX Coordinator and Deputy Title IX Coordinator are not required to attend the hearing but may do so if they deem such attendance appropriate.

- (c) **The Empaneling of the Hearing Board.** The Title IX Coordinator, in consultation with the Dean of Students (if the Complaint involves students), with the Assistant Vice President for Human Resources (if the Complaint involves staff members) and/or with the Dean of Faculty (if the Complaint involves faculty members) will appoint the members of the hearing board. The hearing board will include at least three members selected from a pool of trained faculty members, staff members, and/or external adjudicators, of which one will be designated as the chair. The Dean of Faculty and the Title IX Coordinator will attempt to assign either three faculty members or two faculty members and an

external adjudicator for cases involving only faculty members, and the Assistant Vice President for Human Resources and the Title IX Coordinator will attempt to assign three staff members or two staff members and an external adjudicator for cases involving only staff members. In addition, the hearing board will include at least one faculty member when one of the parties is a faculty member and at least one staff member when one of the parties is a staff member. The Title IX Coordinator will share the Complaint, the investigative report and any written response thereto, and the notice of charges with the hearing board.

- (d) Notice of the Hearing and Composition of the Hearing Board.** Promptly after the appointment of the members of the hearing board and no fewer than ten calendar days prior to the hearing, the Title IX Coordinator will provide concurrent written notice to the Complainant and the Respondent setting forth the date, time, and location of the hearing, as well as the names of the individuals selected to serve on and chair the hearing board.

The parties may challenge the participation of any member of the hearing board by submitting a written objection to the Title IX Coordinator within two calendar days of receipt of the notice of the composition of the hearing board. Such objection must state the specific reason(s) for the objection. The Title IX Coordinator will evaluate the objection and determine, in consultation with the Dean of Students, the Assistant Vice President for Human Resources, and/or the Dean of Faculty, as appropriate, whether to alter the composition of the hearing board. Any modifications to the composition of the hearing board will be provided in writing to both parties prior to the date of the hearing.

- (e) Evidence.**

(i) Generally. It is anticipated that evidence will primarily be gathered and developed during the investigation and presented to the hearing board in the investigative report. The University will make all evidence obtained during the investigation that is directly related to the allegations raised in the Formal Complaint available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination. The chair of the hearing board will resolve any questions concerning the admission of evidence or testimony (including the relevancy and reliability of the evidence and testimony). The hearing board will notify the parties of any evidence in the investigative report that will be excluded as not relevant and/or any previously submitted evidence excluded from the investigative report that will be included as relevant and the reasons therefore. Parties should not attempt to introduce at the hearing any evidence that the chair determines is not relevant, and the hearing board will not consider any such evidence in making its decision. Members of the University community are expected to provide truthful testimony, and any member of the University community providing false information during this process is subject to discipline. The Complainant and the Respondent will have an equal opportunity to address the hearing board, if desired. Formal rules of evidence will not be observed during hearings.

(ii) Evidence of Past Sexual History. Evidence of and questions about the Complainant's and the Respondent's sexual predisposition or prior sexual behavior are not relevant and will not be permitted at the hearing, with the following exceptions:

(1) Regarding the Complainant: (A) if the questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant;

and (B) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.

(2) Regarding the Respondent: Regardless of whether the Respondent was formally investigated or found responsible for such conduct, such evidence may be permitted if it is relevant to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Harassment at issue before the hearing board, provided that (A) the Respondent has not been found "not responsible" by the University in a proceeding related to such conduct; and (B) the chair of the hearing board has found both that the evidence is reliable and trustworthy and that the conduct is sufficiently and substantially similar to the conduct at issue before the hearing board to suggest a pattern of behavior. Such evidence may include, but is not limited to, evidence that the Respondent has in the past been either convicted in a criminal proceeding or formally disciplined by the University for conduct constituting Sexual Harassment.

- (iii) Character Evidence.** Character evidence is generally not relevant and is therefore generally inadmissible.
- (iv) Privilege.** Questions and/or evidence that constitute or seek disclosure of information protected under a legally recognized privilege are not permitted unless the person holding the privilege has waived the privilege in writing.
- (v) Treatment Records.** The University will not access, consider, disclose, or otherwise use a party's Treatment Records unless the party provides voluntary, written consent for it to do so.

(f) Conduct of the Hearing.

- (i) Generally.** The hearing will be live and will be conducted with parties in separate rooms, using technology to ensure parties can simultaneously see and hear any party or witness answering questions. At the discretion of the University, the hearing may be conducted partially or entirely remotely, with any or all participants participating virtually. The hearing will provide an equal opportunity for both parties to present both fact and expert witnesses and other inculpatory or exculpatory evidence. The chair of the hearing board will resolve any questions concerning procedure.
- (ii) Direct Questioning by the Hearing Board.** The hearing board will first ask any relevant questions it has of a party or witness by conducting a direct examination of that individual.
- (iii) Cross-Examination.** After the hearing board has completed its direct examination, the advisor for each party will have an opportunity to conduct a direct, oral, real-time cross-examination of the other party and/or witnesses, which may include asking the other party and/or any witnesses relevant questions and follow-up questions, including those challenging credibility. Any questions the Complainant or the Respondent has for the other party or for a witness must be posed by his or her advisor; the Complainant and the Respondent may not pose such questions themselves. A party's advisor will not have the opportunity to question the party for whom they serve as advisor.
- (iv) Relevance.** Before a party or witness answers a cross-examination or other question, the chair will first determine whether the question is relevant and explain any decision to exclude

a question as not relevant. The hearing board may exclude as not relevant questions that are duplicative or are posed solely to harass the witness or other party.

- (v) **Failure to Participate.** If the Complainant and/or the Respondent fails to appear before the hearing board, and such party was provided proper notice of the hearing as set forth in Section 2.04(d), then absent extenuating circumstances, the hearing board will proceed with the hearing and its determinations.

The Respondent, the Complainant, and/or a witness may choose not to testify before the hearing board; however, the exercise of that option will not preclude the hearing board from making a determination regarding responsibility.

The Respondent, the Complainant, and/or any witness may choose not to submit to cross-examination at the hearing; however, in such case the hearing board will not rely on any statement of that party or witness (whether made during the investigation or in the hearing) in reaching a determination regarding responsibility.

The hearing board will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to testify or submit to cross-examination.

- (vi) **Recording.** The University will record the hearing. This recording will be the only recording permitted of the proceedings and will be the property of the University. The parties and the appeals board may inspect and review the recording and/or any transcript thereof, including as part of the appeal process. Reasonable care will be taken to ensure a quality recording; however, technological problems that result in no recording or in an inaudible one will not affect the validity of the outcome of a hearing.

(g) The Decision of the Hearing Board.

- (i) **Regarding Responsibility.** Following the conclusion of the hearing, the hearing board will confer and by majority vote determine whether the evidence (including the information provided in and by the investigative report, any evidence presented at the hearing, and the testimony of the parties and witnesses) establishes that it is more likely than not that the Respondent committed Sexual Harassment. (In other words, the standard of proof will be the preponderance of the evidence standard.) The hearing board will render a finding of "Responsible" or "Not Responsible" and will provide the rationale for its decision. If the Respondent is found "Responsible," the hearing board will specify the specific type(s) of Sexual Harassment or Sexual Misconduct for which the Respondent is found "Responsible" (e.g., Sexual Assault, Stalking). When determined by the hearing board to be appropriate, the hearing board will communicate the finding of "Responsible" or "Not Responsible" to the parties on the day of the hearing. Additional information regarding the decision, including the rationale and any sanctions (if applicable) will be communicated in the final outcome letter (as described in Section 2.04(k)).

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if one is filed, or if an appeal is not filed, on the date on which an appeal would no longer be considered to be timely filed.

(ii) Regarding Sanctions. If the hearing board determines that the Respondent is “Responsible,” it will recommend appropriate sanctions to be imposed on the Respondent.

Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline, or both. Sanctions must be designed to restore or preserve equal access to the University’s Education Program or Activity and include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the University, disciplinary probation, social restrictions, expulsion or suspension from campus housing, suspension or revocation of admission, suspension or revocation of degree, written warning, mandated counseling, completion of a batterer intervention program, completion of a violence risk assessment, parental notification, and/or educational sanctions (e.g., community service, reflection paper(s), fines) deemed appropriate by the hearing board. The hearing board will give consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation. The hearing board also will consider the impact of separating a student from his or her education. The hearing board may consider any prior disciplinary history of a Respondent in determining appropriate sanctions.

As a guide, typical ranges of sanctions for individual violations are listed below. However, individual sanctions may be combined in order to address Sexual Harassment (e.g., a period of suspension from the University may be combined with parental notification, disciplinary probation, and social probation upon return to the University). In addition, the hearing board may consider aggravating or mitigating factors that might impact the sanctions that are appropriate.

Typical Ranges of Sanctions

Violation	Typical Range of Sanctions for Students	Typical Range of Sanctions for Employees
Quid Pro Quo Sexual Harassment	Inapplicable. If a student-employee is acting within the scope of the student-employee’s employment, the typical sanctions to the right applicable to employees would apply.	<ul style="list-style-type: none"> • educational sanctions/training • written reprimand • performance improvement plan • warning/probation • withholding a promotion or pay increase • loss of supervisory authority • relocation of office • demotion • reassigning employment • terminating employment • temporary leave/suspension without pay • compensation adjustments • changes in conditions of employment

Violation	Typical Range of Sanctions for Students	Typical Range of Sanctions for Employees
Hostile Environment Sexual Harassment	<ul style="list-style-type: none"> • parental notification • educational sanctions (such as community service, reflection paper(s), and/or fines) • social restrictions • disciplinary probation • suspension or expulsion from campus housing • suspension or expulsion from the University 	<ul style="list-style-type: none"> • educational sanctions/training • written reprimand • performance improvement plan • warning/probation • withholding a promotion or pay increase • loss of supervisory authority • relocation of office • demotion • reassigning employment • terminating employment • temporary leave/suspension without pay • compensation adjustments • changes in conditions of employment
Stalking, Dating Violence, or Domestic Violence	<ul style="list-style-type: none"> • parental notification • educational sanctions (such as community service, reflection paper(s), and/or fines) • social restrictions • disciplinary probation • suspension or expulsion from campus housing • suspension or expulsion from the University • completion of a batterer intervention program • completion of a threat assessment 	<ul style="list-style-type: none"> • educational sanctions/training • written reprimand • performance improvement plan • warning/probation • withholding a promotion or pay increase • loss of supervisory authority • relocation of office • demotion • reassigning employment • terminating employment • temporary leave/suspension without pay • compensation adjustments • changes in conditions of employment • completion of batterer intervention program
Sexual Assault <i>The appropriate sanctions for Sexual Assault generally will include, at a minimum, a period of separation from the University.</i>	<ul style="list-style-type: none"> • parental notification • educational sanctions (such as community service, reflection paper(s), and/or fines) • social restrictions • disciplinary probation • suspension or expulsion from campus housing • suspension or expulsion from the University • completion of threat assessment 	<ul style="list-style-type: none"> • educational sanctions/training • written reprimand • performance improvement plan • warning/probation • withholding a promotion or pay increase • loss of supervisory authority • relocation of office • demotion • reassigning employment • terminating employment • temporary leave/suspension without pay • compensation adjustments • changes in conditions of employment

- (h) Review of Sanctions.** The hearing board will forward its recommendations regarding sanctions to the Title IX Coordinator, who will share the recommended sanctions with the Dean of Students (in cases involving student Respondents), the Dean of Faculty and the Assistant Vice President for Human Resources (in cases involving faculty Respondents), and the Assistant Vice President for Human Resources (in cases involving staff Respondents). These individuals will either adopt the sanctions as recommended or make any changes deemed necessary to ensure the sanctions are appropriate, consistent with those issued in similar cases, and intended to end the misconduct, prevent a recurrence, and remedy the effects.
- (i) Implementation of Sanctions.** The determination regarding sanctions becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if one is filed, or if an appeal is not filed, on the date on which an appeal would no longer be considered to be timely filed. However, if it is advisable in order to protect the welfare of the Complainant or the University community, the hearing board may recommend and/or the Title IX Coordinator may determine that any sanctions be effective on an interim basis for the period of time between the conclusion of the hearing and the date that the University provides the parties with the written determination of the result of the appeal, if one is filed, or if an appeal is not filed, on the date on which an appeal would no longer be considered to be timely filed.
- (j) Final Outcome Letter.** Within seven business days following the conclusion of the hearing, the Title IX Coordinator will issue a final outcome letter simultaneously to the Respondent and the Complainant.

The final outcome letter will (i) name of the Respondent; (ii) identify the allegations potentially constituting Sexual Harassment; (iii) describe procedural steps taken from the filing of the Formal Complainant through the determination, including any notifications to the parties, interviews of parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (iv) provide findings of fact that support the hearing board's determination; (v) provide conclusions regarding the application of this Policy to the facts, (vi) provide a statement of, and the rationale for, the result as to each allegation, including a determination regarding responsibility and any disciplinary sanctions imposed, and whether remedies designed to restore or preserve equal access to the Education Program or Activity will be provided to the Complainant, and (vii) explain the procedures and permissible bases for the Complainant and the Respondent to appeal.

Section 2.05 Appeals.

The Complainant and/or the Respondent may appeal the decision of the hearing board and/or the sanctions imposed on the Respondent by submitting a written appeal to the Title IX Coordinator within seven calendar days from the date of the final outcome letter. The decision of the hearing board and the sanction imposed on the Respondent may, if desired, be appealed simultaneously. A party wishing to appeal may request and receive access to the audio recording and/or transcript of the hearing proceedings.

- (a) Grounds for Appeal.**

 - (i) Appeals of Responsibility.** The following are the only permissible grounds for an appeal of the hearing board's responsibility determination: (i) a procedural irregularity affected the outcome of the matter; (ii) new evidence is available that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter; and (iii) the Title IX Coordinator, an investigator, or a hearing board member had

a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

(ii) **Appeals of Sanctions.** The following is the only permissible grounds for an appeal of the sanctions imposed on the Respondent: the severity of the sanction imposed is incommensurate to the gravity of the Sexual Harassment for which the Respondent was found responsible.

(b) **Notice of the Appeal and Composition of the Appeals Board.** The Title IX Coordinator will promptly inform the other party of the filing of the appeal. If the non-appealing party wishes to submit a response to the appeal (whether in support of or challenging the determination regarding responsibility), he or she must do so in writing to the Title IX Coordinator within three calendar days of the notification of the filing of the appeal.

The Title IX Coordinator will also, in consultation with the Dean of Students (if the Complaint involves students), the Assistant Vice President for Human Resources (if the Complaint involves staff members) and/or the Dean of Faculty (if the Complaint involves faculty members) appoint the members of the appeals board. The appeals board will include at least three faculty and/or staff members, of which one will be designated as the chair. The Dean of Faculty and Title IX Coordinator will attempt to assign three faculty members for cases involving only faculty members, and The Assistant Vice President for Human Resources and the Title IX Coordinator will attempt to assign three staff members for cases involving only staff members. In addition, the appeals board will include at least one faculty member when one of the parties is a faculty member and at least one staff member when one of the parties is a staff member.

The Title IX Coordinator will share the Formal Complaint, the investigative report, any audio recording and/or transcript of the hearing proceedings, any statements introduced at the hearing, and any other evidence considered by the hearing board, the written findings of the hearing board, and the written appeal submissions of the parties with the appeals board. In addition, if an appeal raises procedural issues, the Title IX Coordinator may provide the appeals board additional information relevant to the issues raised in the appeal.

(c) **Decision of the Appeals Board.** Within ten business days of the receipt of the appeal (or as soon as is reasonably practicable), the appeals board will determine by majority vote (i) that the decision of the hearing board should stand or (ii) that the decision of the hearing board should be overturned. In the event that the appeals board determines that the decision of the hearing board should be overturned, the appeals board will specify, after consultation with the Title IX Coordinator and other University administrators, as it deems appropriate, the appropriate steps to be taken to come to a final resolution of the Formal Complaint (which may or may not include an additional hearing before a different hearing board, or a hearing before the same or a different hearing board solely to reconsider sanctions).

(d) **Appeal Outcome Letter.** The Title IX Coordinator will notify the Complainant and the Respondent of the appeals board's decision and the rationale therefor concurrently and in writing. If another hearing is convened before a hearing board for the sole purpose of considering sanctions, the final sanctions set by the hearing board and approved by the Title IX Coordinator will not be subject to further appeal.

PART III. GRIEVANCE PROCEDURES FOR NON-TITLE IX SEXUAL MISCONDUCT

Section 3.01 General Provisions.

- (a) Applicability of these Grievance Procedures.** When the University receives Non-Title IX Allegations, it will follow these Grievance Procedures for Non-Title IX Sexual Misconduct.
- (b) Advisors.** Both the Complainant and the Respondent may be accompanied to any meeting or proceeding under these Grievance Procedures for Non-Title IX Sexual Misconduct (e.g., related prehearing meetings, investigative interviews, and the hearing or alternative resolution meeting) by the advisor of their choice. A person may not serve both as an advisor and as a witness in a proceeding. Advisors may be friends, victim advocates, lawyers, or others. The Complainant and the Respondent may consult with their respective advisors during meetings or proceedings. Advisors may not, however, disrupt or speak on behalf of a Complainant or Respondent during any such meeting or proceeding. The advisor's attendance may be disallowed if such advisor's presence would be obstructive or would otherwise warrant his or her removal. Advisors are expected to acknowledge and agree to maintain the confidentiality of all documents to which they are provided access pursuant to this Policy.

Absent accommodation for disability, the Complainant and the Respondent may not be accompanied by more than one advisor or by other individuals during meetings.

Section 3.02 Complaint Intake.

- (a) Receipt of Allegations and Initial Outreach to Complainant.** Promptly upon receiving Non-Title IX Allegations, the Title IX Coordinator will contact the Complainant to discuss the availability of Supportive Measures (including informing the Complainant that Supportive Measures are available with or without the filing of a Complaint) and to discuss the allegations and avenues for their resolution (including explaining to the Complainant the process for filing a Complaint).
- (b) Evaluation of Supportive Measures, Interim Emergency Removal/Administrative Leave.**
 - (i) Supportive Measures.** Following the receipt of Non-Title IX Allegations (and at any point during the resolution process set forth in these Grievance Procedures for Non-Title IX Sexual Misconduct if the Title IX Coordinator deems it necessary for the protection of any member of the University community), the Title IX Coordinator will determine which, if any, Supportive Measures will be provided to the Complainant and/or the Respondent. The Title IX Coordinator will consider both the Complainant's wishes with respect to the provision of Supportive Measures to the Complainant and the Respondent's wishes with respect to the provision of Supportive Measures to the Respondent.

The Title IX Coordinator will notify the Complainant and/or the Respondent, as applicable, of the Supportive Measures to be provided. The University will maintain as confidential any Supportive Measures provided to the Complainant or Respondent to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

(ii) Interim Emergency Actions.

(1) Student Respondents. When the Title IX Coordinator has made an individualized safety and risk analysis and determined that an immediate threat to the physical health or safety of any student or other individual arising from the Non-Title IX Allegations justifies such action, the Title IX Coordinator may request that the Dean of Students or his or her designee, on an emergency interim basis during the pendency of the resolution process set forth in these Grievance Procedures for Non-Title IX Sexual Misconduct impose on the Respondent an administrative withdrawal from the University; summarily suspend the Respondent from campus housing; temporarily adjust the job duties of a student-employee Respondent or place such student-employee Respondent on paid administrative leave; or take such steps as are reasonable, appropriate, and necessary to restrict the Respondent's access to University facilities. The Title IX Coordinator will notify the Respondent of the emergency interim measure(s) in writing. These actions may be appealed to the Vice President for Student Life or his or her designee by requesting a "show cause" hearing in writing within 72 hours of receipt of the notice outlining the decision. The hearing will provide the student with the opportunity to demonstrate why the interim action should not take place. The "show cause" hearing will take place within 72 hours of receipt of the request. The decision of the Vice President for Student Life regarding the imposition of these actions will be final.

(2) Non-student Employee Respondents. When a non-student employee Respondent's alleged actions or behaviors affect the safety, health, or general welfare of the Complainant, students, other employees, and/or the University community, the Title IX Coordinator may request that the individual authorized to make personnel decisions regarding the employee at issue (A) take such steps as are reasonable, appropriate, and necessary to restrict the Respondent's access to University facilities or (B) temporarily adjust the job duties of or place on administrative leave such Respondent during the pendency of the resolution process set forth in these Grievance Procedures for Non-Title IX Sexual Misconduct. The Title IX Coordinator will notify the Respondent of the emergency interim measure(s) in writing. These actions may be appealed to the Assistant Vice President of Human Resources for decisions regarding Furman staff members and to the Dean of Faculty for decisions regarding Furman faculty members. The decision of the Assistant Vice President of Human Resources or Dean of Faculty regarding the imposition of these actions will be final.

(c) Filing of a Complaint.

(i) By the Complainant. Following the Title IX Coordinator's initial outreach to the Complainant as set forth in Section 3.02(a) above, the Complainant may file a Complaint by completing a Sexual Misconduct Complaint Form (see Exhibit C) or by submitting a written statement in his or her own words providing sufficient information for the University to investigate the allegations contained therein (including but not limited to the name of the Respondent and the date, location, and nature of the alleged Sexual Misconduct). A Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed on Exhibit A.

The University recognizes that not every individual who reports Sexual Misconduct intends to initiate a Complaint. In addition, the Title IX Coordinator and the Deputy Title IX Coordinators are a resource for the University community, and the University recognizes that some students and employees may wish to obtain information about reporting options,

Supportive Measures and available support without initiating a Complaint. For that reason, the University will not proceed with investigation and adjudication as set forth in this Part in the absence of a filed Complaint. In such a situation, the Title IX Coordinator may work with the Complainant and/or Respondent to implement Supportive Measures and/or take measures to stop the identified behavior (such as through consultation with both parties) without the Complainant initiating a Complaint.

(ii) By the Title IX Coordinator. When the Title IX Coordinator believes that, with or without the Complainant's desire to participate in a grievance process, the nature of the allegations warrants an investigation, the Title IX Coordinator has the discretion to initiate the grievance process by signing a Complaint. In determining whether circumstances warrant such action, the University may consider the following factors:

- (1)** the seriousness of the alleged Sexual Misconduct (including, but not limited to, whether the Sexual Misconduct was perpetrated with a weapon);
- (2)** the increased risk that the alleged perpetrator will commit additional acts of Sexual Misconduct, such as (A) whether there have been other reports or complaints against the alleged perpetrator, (B) whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of Sexual Misconduct or a history of violence, (C) whether the alleged perpetrator threatened further Sexual Misconduct or threatened violence against the Complainant or others, or (D) whether the Sexual Misconduct was alleged to have been committed by multiple perpetrators;
- (3)** whether the information reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group or person;
- (4)** whether the alleged perpetrator is an employee of the University and/or holds a position that could place community members at risk; and
- (5)** whether the alleged victim is a minor.

The presence of one or more of these factors or other factors impacting the safety of the University community may lead the Title IX Coordinator to initiate the grievance process by signing a Complaint. In the absence of any factors that indicate an ongoing safety concern for the University community, the Title IX Coordinator generally will not initiate a Complaint, and the University will proceed with the grievance process when and if the Complainant files a Complaint.

Where the Title IX Coordinator signs a Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under these Grievance Procedures for Non-Title IX Sexual Misconduct. Furthermore, initiation of a Complaint by the Title IX Coordinator is not sufficient alone to imply bias or that the Title IX Coordinator is taking a position adverse to the Respondent.

(d) Initial Outreach to Respondent. Following the filing of a complaint, the Title IX Coordinator will also schedule an initial meeting with the Respondent to discuss the availability of Supportive Measures, to inform the Respondent of any Supportive Measures already determined and being provided to the Complainant that directly affect the Respondent, and to discuss the Complaint and avenues for its resolution. Following the meeting with the Respondent, the Title IX Coordinator will, if applicable, promptly determine the Supportive Measures to be provided to the Respondent during the pendency of the investigative and resolution processes as set forth in Section 3.02(b)(i) above.

Section 3.03 The Investigation.

The University will investigate the allegations in a Complaint (other than a Formal Complaint that is not dismissed as set forth in Section 2.02(e)) as set forth in this Section 3.03.

- (a) **The Title IX Coordinator's Initial Determination.** A Complaint generally will proceed through the investigation process unless it is clear on its face and/or based on the Title IX Coordinator's initial meeting with the parties that no reasonable grounds exist for believing that the conduct at issue constitutes Sexual Misconduct. In the event that the Title IX Coordinator determines that an investigation of the Complaint is not warranted, he or she will close the Complaint, document the closure, and promptly notify the Complainant and the Respondent of the closure and the rationale for the closure.

The Complainant and/or the Respondent may appeal the Title IX Coordinator's decision to close a Complaint in writing to the Vice President for Student Life (for student Respondents), the Dean of Faculty (for faculty Respondents), or the Assistant Vice President of Human Resources (for staff Respondents) and provide a copy of the appeal to the Title IX Coordinator within five days of receipt of the notice of closure. The Vice President for Student Life, the Dean of Faculty, or the Assistant Vice President of Human Resources, as applicable, will promptly inform the other party of the appeal.

Following receipt of the appeal, Vice President for Student Life, the Dean of Faculty, or the Assistant Vice President of Human Resources, as applicable, will make a determination as to whether the Complaint warrants further investigation or the case should be closed and whether any additional or different remedial action is necessary. He or she will notify the Complainant and the Respondent concurrently of his or her decision. The decision of the Vice President for Student Life, the Dean of Faculty, or the Assistant Vice President of Human Resources, as applicable, is final.

- (b) **Appointment of Investigators.** If it is determined that the Complaint will proceed through the investigation process, the Title IX Coordinator will promptly appoint two investigators who will serve as neutral fact-gatherers to investigate the Complaint. These investigators may be University employees, non-employee outside investigators, or a combination of the two. The Title IX Coordinator will share their names and contact information with the Complainant and the Respondent and will forward the Complaint to the Investigators.

Within two business days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing alleged conflicts of interest posed by assigning those particular investigators to the matter. The Title IX Coordinator will carefully consider such statements and will assign different individuals as investigators if the Title IX Coordinator determines that a material conflict of interest exists.

- (c) **The Investigators' Activities.** Upon receipt of the Complaint, the investigators will promptly begin their investigation, taking such steps as conducting interviews with the Complainant, the Respondent, and third-party witnesses (including expert witnesses, where applicable) and either recording and having interviews transcribed or summarizing such interviews in written form; visiting, inspecting, and taking or reviewing photographs at relevant sites where applicable; and collecting and preserving relevant evidence, where applicable (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies). The Complainant and the Respondent will both have the opportunity to present both inculpatory and exculpatory evidence and to present both fact and expert witnesses to be interviewed by the investigators.

- (d) **Submission of Evidence and Identification of Witnesses.** Any evidence that the parties wish the hearing board to consider should be presented to the investigators as early as possible during the investigation. Any such evidence will be made available to the other party and their advisor, as well as, where appropriate, to any expert witness the other party has identified. Any evidence that is not submitted in a timely manner during the course of the investigation and prior to the finalization of the investigative report may be excluded at the discretion of the hearing board.

Similarly, all witnesses should be identified to the investigators during the investigation. Any party who wishes to present testimony from a witness should identify that witness by providing the witness's name, contact information, and a summary of any opinions the witness expects to offer related to the allegations or evidence, as well as, in the case of expert witnesses, the witness's qualifications to offer expert testimony. Parties must make any expert witnesses available to be interviewed by investigators. Any evidence upon which the witness relies must be provided to the investigators and will be made available to the other party and their advisor, as well as to any expert witness the other party has identified to the extent that such evidence is relevant to the expert witness's testimony. This information must be provided as early as possible in the investigation and in no event later than finalization of the investigative report. The hearing board generally will not call or consider written statements from witnesses who were not identified to investigators and interviewed during the investigation; however, the hearing board may, in its discretion and for good cause, choose to consider information from witnesses who were not interviewed during the investigation.

- (e) **The Investigative Report.** The investigators will create a written investigative report that summarizes relevant evidence and includes items such as the Complaint, any written statements of position, summaries or transcripts of all interviews conducted, photographs, descriptions of relevant evidence, summaries or copies of relevant electronic records, and a detailed report of the events in question.

Prior to the completion of the investigative report, the investigators will provide each party and each party's advisor the opportunity to inspect and review any evidence obtained during the investigation that is directly related to the allegations raised in the Complaint, including (i) any evidence upon which the University does not intend to rely in reaching a determination regarding responsibility; and (ii) both inculpatory and exculpatory evidence (i.e. evidence that tends to show responsibility and tends to show absence of responsibility) whether obtained from the Complainant, the Respondent, or another source. The University may deliver the evidence to the parties and their advisors in either electronic format or in hard copy.

The Complainant and the Respondent will have ten calendar days to submit to the investigators a written response to the evidence provided for review and inspection. In this response, the parties may address the relevancy of any evidence that the parties believe should be included in or excluded from the investigative report and any further investigation activities or questions that they believe are necessary for a thorough investigation. If a party wishes to submit new evidence in connection with his or her written response, he or she should include with it an explanation of the relevance of the evidence and the reason the evidence was not previously provided to the investigators. The investigators will share each written response with the other party.

The investigators will review the parties' written response(s), conduct additional investigative activities as appropriate, and consider the parties' written response(s) prior to completing the investigative report.

At least ten calendar days prior to the hearing, the investigators will make the final investigative report available to the Title IX Coordinator as well as to both the parties and their advisors for their review. The University may deliver the evidence to the parties and their advisors in either electronic format or in hard copy.

The Complainant and the Respondent will have seven calendar days to submit to the Title IX Coordinator a written response to the investigative report. In this response, the parties may address the relevance of any evidence that the parties believe should have been included in or excluded from the investigative report and may include a written statement of position. The Title IX Coordinator will share each written response with the other party.

Due to the sensitive nature of the information in this report, neither the parties nor their advisors may copy, remove, photograph, print, image, record or in any other manner duplicate or remove the information provided (even after the resolution of the Complaint). Parties who violate these restrictions may be disciplined, and advisors who violate these restrictions may be barred from further participation in the process.

- (f) The Title IX Coordinator’s Evaluation of the Investigative Report.** The Title IX Coordinator will evaluate the investigative report and will direct that the Complaint will proceed to adjudication according to the procedures set forth in Section 3.04 *unless* it is clear from the investigative report that no reasonable grounds exist for believing that the conduct at issue constitutes Sexual Misconduct.

If the Title IX Coordinator finds that it is clear from the investigative report that no reasonable grounds exist to believe that the conduct at issue constitutes Sexual Misconduct, then the Title IX Coordinator will close the Complaint, document the closure, and promptly notify the Complainant and the Respondent of the closure and the rationale for the closure. The Complainant and/or the Respondent may appeal the Title IX Coordinator’s decision to close the Complaint in writing to the Title IX Coordinator within five days of receipt of the notice. The Title IX Coordinator will share the appeal with the other party. Within approximately 10 days of the receipt of the party’s appeal, the Title IX Coordinator will make a determination as to whether the Complaint should proceed to hearing or the closure should stand. The Title IX Coordinator will notify the Complainant and the Respondent concurrently of his or her decision, which will be final.

- (g) Notice of Charges.** If the Title IX Coordinator directs that the Complaint will proceed to adjudication, he or she will send both parties a notice of charges that specifies the allegations that will proceed through a formal resolution process.

Section 3.04 The Hearing.

- (a) Respondent’s Acknowledgement of Responsibility.** At any time prior to the hearing, the Respondent may elect to accept responsibility for the alleged Sexual Misconduct. In such a situation, the Title IX Coordinator will propose sanction(s) for the Respondent. If the Complainant and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without a hearing and without any further rights of appeal by either party.

If either the Complainant or the Respondent objects to such proposed sanction(s), then a hearing board will convene for the exclusive purpose of determining a sanction. The sanction(s) determination may be appealed pursuant to Section 3.05.

- (b) **The Formal Resolution Process.** Unless the parties elect to participate in alternative resolution, following the investigation a hearing board will conduct a hearing in which it may question the Complainant, the Respondent, and witnesses as set forth below. The Title IX Coordinator and Deputy Title IX Coordinator are not required to attend the hearing but may do so if they deem such attendance appropriate.
- (c) **The Empaneling of the Hearing Board.** The Title IX Coordinator, in consultation with the Dean of Students (if the Complaint involves students), with the Assistant Vice President for Human Resources (if the Complaint involves staff members) and/or with the Dean of Faculty (if the Complaint involves faculty members) will appoint the members of the hearing board. The hearing board will include at least three members selected from a pool of trained faculty members, staff members, and/or external adjudicators, of which one will be designated as the chair. The Dean of Faculty and the Title IX Coordinator will attempt to assign either three faculty members or two faculty members and an external adjudicator for cases involving only faculty members, and the Assistant Vice President for Human Resources and the Title IX Coordinator will attempt to assign three staff members or two staff members and an external adjudicator for cases involving only staff members. In addition, the hearing board will include at least one faculty member when one of the parties is a faculty member and at least one staff member when one of the parties is a staff member. The Title IX Coordinator will share the Complaint, the investigative report, and the notice of charges with the hearing board.
- (d) **Notice of the Hearing and Composition of the Hearing Board.** Promptly after the appointment of the members of the hearing board and no fewer than ten calendar days prior to the hearing, the Title IX Coordinator will provide concurrent written notice to the Complainant and the Respondent setting forth the date, time and location of the hearing, as well as the names of the individuals selected to serve on and chair the hearing board.

The parties may challenge the participation of any member of the hearing board by submitting a written objection to the Title IX Coordinator within two calendar days of receipt of the notice of the composition of the hearing board. Such objection must state the specific reason(s) for the objection. The Title IX Coordinator will evaluate the objection and determine, in consultation with the Dean of Students, the Assistant Vice President for Human Resources, and/or the Dean of Faculty, as appropriate, whether to alter the composition of the hearing board. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the hearing board. Any modifications to the composition of the hearing board will be provided in writing to both parties prior to the date of the hearing.

Within three days of receipt of the notice of the hearing and the composition of the hearing board, the Complainant and the Respondent may provide the hearing board with a list of witnesses, if any, that they propose that the hearing board call and a brief description of each proposed witness's connection to and/or knowledge of the issues in dispute. The hearing board will determine which, if any, of the witnesses it intends to call.

- (e) **Evidence.**
 - (i) **Generally.** It is anticipated that evidence will primarily be gathered and developed during the investigation and presented to the hearing board in the investigative report. The University will make all evidence obtained during the investigation that is directly related to the allegations raised in the Complaint available at the hearing to give each party equal opportunity to refer to such evidence during the hearing. The chair of the hearing board will resolve any questions concerning the admission of evidence or testimony (including the

relevancy and reliability of the evidence and testimony). The hearing board will notify the parties of any evidence in the investigative report that will be excluded as not relevant and/or any previously submitted evidence excluded from the investigative report that will be included as relevant and the reasons therefore. Parties should not attempt to introduce at the hearing any evidence that the chair determines is not relevant, and the hearing board will not consider any such evidence in making its decision. Members of the University community are expected to provide truthful testimony, and any member of the University community providing false information during this process is subject to discipline. The Complainant and the Respondent will have an equal opportunity to address the hearing board, if desired. Formal rules of evidence will not be observed during hearings.

(ii) Evidence of Past Sexual History. Evidence of and questions about the Complainant's and the Respondent's sexual predisposition or prior sexual behavior are not relevant and will not be permitted at the hearing, with the following exceptions:

(1) Regarding the Complainant: (A) if the questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; (B) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent; and (C) if the questions and evidence are offered to show that the Complainant has in the past been formally disciplined by the University for falsely filing Complaints alleging Sexual Misconduct.

(2) Regarding the Respondent: Regardless of whether the Respondent was formally investigated or found responsible for such conduct, such evidence may be permitted if it is relevant to show that the Respondent has engaged in a pattern of behavior similar to the alleged Sexual Harassment at issue before the hearing board, provided that (A) the Respondent has not been found "not responsible" by the University in a proceeding related to such conduct and (B) the chair of the hearing board has found both that the evidence is reliable and trustworthy and that the conduct is sufficiently and substantially similar to the conduct at issue before the hearing board to suggest a pattern of behavior. Such evidence may include, but is not limited to, evidence that the Respondent has in the past been either convicted in a criminal proceeding or formally disciplined by the University for conduct constituting Sexual Misconduct.

(iii) Character Evidence. Character evidence is generally not relevant and is therefore generally inadmissible.

(iv) Privilege. Questions and/or evidence that constitute or seek disclosure of information protected under a legally recognized privilege are not permitted unless the person holding the privilege has waived the privilege in writing.

(v) Treatment Records. The University will not access, consider, disclose, or otherwise use a party's Treatment Records unless the party provides voluntary, written consent for it to do so.

(f) Conduct of the Hearing.

(i) Generally. The hearing will be live and will be conducted with parties in separate rooms, using technology to ensure parties can simultaneously see and hear any party or witness answering questions. At the discretion of the University, the hearing may be conducted

partially or entirely remotely, with any or all participants participating virtually. The hearing will provide an equal opportunity for both parties to present both fact and expert witnesses and other inculpatory or exculpatory evidence. The chair of the hearing board will resolve any questions concerning procedure.

- (ii) **Questioning.** The hearing board will be responsible for asking any questions to be asked of the parties. Both the hearing board and the parties will have the opportunity to question any witnesses. The hearing board may exclude as not relevant questions that are duplicative or are posed solely to harass a witness or other party. The hearing board may question the investigators as necessary to clarify information provided in the investigative report.
- (iii) **Failure to Participate.** If the Complainant and/or the Respondent fails to appear before the hearing board, and such party was provided proper notice of the hearing as set forth in Section 3.04(d), then absent extenuating circumstances, the hearing board will proceed with the hearing and its determinations.

The Respondent, the Complainant, and/or a witness may choose not to testify before the hearing board; however, the exercise of that option will not preclude the hearing board from making a determination regarding responsibility.

- (iv) **Recording.** The University may record the hearing. This recording will be the only recording permitted of the proceedings and will be the property of the University. The parties and the appeals board may inspect and review the recording and/or any transcript thereof, including as part of the appeal process. Reasonable care will be taken to ensure a quality recording; however, technological problems that result in no recording or in an inaudible one will not affect the validity of the outcome of a hearing.

(g) The Decision of the Hearing Board

- (i) **Regarding Responsibility.** Following the conclusion of the hearing, the hearing board will confer and by majority vote determine whether the evidence (including the information provided in and by the investigative report, any evidence presented at the hearing, and the testimony of the parties and witnesses) establishes that it is more likely than not that the Respondent committed Sexual Misconduct. (In other words, the standard of proof will be the preponderance of the evidence standard.) The hearing board will render a finding of “Responsible” or “Not Responsible” and will provide the rationale for its decision. If the Respondent is found “Responsible,” the hearing board will specify the specific type(s) of Sexual Misconduct for which the Respondent is found “Responsible” (e.g., Sexual Exploitation, Unwelcome Sexual Conduct). When determined by the hearing board to be appropriate, the hearing board will communicate the finding of “Responsible” or “Not Responsible” to the parties on the day of the hearing. Additional information regarding the decision, including the rationale and any sanctions (if applicable) will be communicated in the final outcome letter (as described in Section 3.04(k)).

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if one is filed, or if an appeal is not filed, on the date on which an appeal would no longer be considered to be timely filed.

(ii) **Regarding Sanctions.** If the hearing board determines that the Respondent is “Responsible,” it will recommend appropriate sanctions to be imposed on the Respondent.

Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline, or both. Sanctions include, but are not limited to, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the University, disciplinary probation, social restrictions, expulsion or suspension from campus housing, suspension or revocation of admission, suspension or revocation of degree, written warning, mandated counseling, completion of a batterer intervention program, completion of violence risk assessment, parental notification, and/or educational sanctions (e.g., community service, reflection paper(s), fines) deemed appropriate by the hearing board. The hearing board will give consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation. The hearing board also will consider the impact of separating a student from his or her education. The hearing board may consider any prior disciplinary history of a Respondent in determining appropriate sanctions.

As a guide, typical ranges of sanctions for individual violations are listed below. However, individual sanctions may be combined in order to address Sexual Misconduct (e.g., a period of suspension from the University may be combined with parental notification, disciplinary probation, and social probation upon return to the University). In addition, the hearing board may consider aggravating or mitigating factors that might impact the sanctions that are appropriate.

Typical Ranges of Sanctions

Violation	Typical Range of Sanctions for Students	Typical Range of Sanctions for Employees
Quid Pro Quo Sexual Harassment; Hostile Environment Sexual Harassment; Unwelcome Sexual Conduct	<ul style="list-style-type: none"> • parental notification • educational sanctions (such as community service, reflection paper(s) and/or fines) • social restrictions • disciplinary probation • suspension or expulsion from campus housing • suspension or expulsion from the University 	<ul style="list-style-type: none"> • educational sanctions/training • written reprimand • performance improvement plan • warning/probation • withholding a promotion or pay increase • loss of supervisory authority • relocation of office • demotion • reassigning employment • terminating employment • temporary leave/suspension without pay • compensation adjustments • changes in conditions of employment

Violation	Typical Range of Sanctions for Students	Typical Range of Sanctions for Employees
Sexual Exploitation	<ul style="list-style-type: none"> • parental notification • educational sanctions (such as community service, reflection paper(s), and/or fines) • social restrictions • disciplinary probation • suspension or expulsion from campus housing • suspension or expulsion from the University 	<ul style="list-style-type: none"> • educational sanctions/training • written reprimand • performance improvement plan • warning/probation • withholding a promotion or pay increase • loss of supervisory authority • relocation of office • demotion • reassigning employment • terminating employment • temporary leave/suspension without pay • compensation adjustments • changes in conditions of employment
Sexual Intimidation, Stalking, Dating Violence, or Domestic Violence	<ul style="list-style-type: none"> • parental notification • educational sanctions (such as community service, reflection paper(s), and/or fines) • social restrictions • disciplinary probation • suspension or expulsion from campus housing • suspension or expulsion from the University • completion of a batterer intervention program • completion of a threat assessment 	<ul style="list-style-type: none"> • educational sanctions/training • written reprimand • performance improvement plan • warning/probation • withholding a promotion or pay increase • loss of supervisory authority • relocation of office • demotion • reassigning employment • terminating employment • temporary leave/suspension without pay • compensation adjustments • changes in conditions of employment • completion of batterer intervention program
Sexual Assault <i>The appropriate sanctions for Sexual Assault generally will include, at a minimum, a period of separation from the University.</i>	<ul style="list-style-type: none"> • parental notification • educational sanctions (such as community service, reflection paper(s), and/or fines) • social restrictions • disciplinary probation • suspension or expulsion from campus housing • suspension or expulsion from the University • completion of threat assessment 	<ul style="list-style-type: none"> • educational sanctions/training • written reprimand • performance improvement plan • warning/probation • withholding a promotion or pay increase • loss of supervisory authority • relocation of office • demotion • reassigning employment • terminating employment • temporary leave/suspension without pay • compensation adjustments • changes in conditions of employment

(h) Review of Sanctions. The hearing board will forward its recommendations regarding sanctions to the Title IX Coordinator, who will share the recommended sanctions with the Dean of Students (in cases involving student Respondents), the Dean of Faculty and the Assistant Vice President for

Human Resources (in cases involving faculty Respondents), and the Assistant Vice President for Human Resources (in cases involving staff Respondents). These individuals will either adopt the sanctions as recommended or make any changes deemed necessary to ensure the sanctions are appropriate, consistent with those issued in similar cases, and intended to end the misconduct, prevent a recurrence, and remedy the effects.

- (i) **Implementation of Sanctions.** The determination regarding sanctions becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if one is filed, or if an appeal is not filed, on the date on which an appeal would no longer be considered to be timely filed. However, if it is advisable in order to protect the welfare of the Complainant or the University community, the hearing board may recommend and/or the Title IX Coordinator may determine that any sanctions be effective on an interim basis for the period of time between the conclusion of the hearing and the date that the University provides the parties with the written determination of the result of the appeal, if one is filed, or if an appeal is not filed, on the date on which an appeal would no longer be considered to be timely filed.
- (j) **Final Outcome Letter.** Within seven business days following the conclusion of the hearing, the Title IX Coordinator will issue a final outcome letter concurrently to the Respondent and the Complainant.

The final outcome letter will (i) name of the Respondent; (ii) identify the allegations potentially constituting Sexual Misconduct; (iii) describe procedural steps taken from the filing of the Complainant through the determination, including any notifications to the parties, interviews of parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (iv) provide findings of fact that support the hearing board's determination; (v) provide conclusions regarding the application of this Policy to the facts, (vi) provide a statement of, and the rationale for, the result as to each allegation, including a determination regarding responsibility and any disciplinary sanctions imposed, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the Complainant, and (vii) explain the procedures and permissible bases for the Complainant and the Respondent to appeal.

Section 3.05 Appeals.

The Complainant and/or the Respondent may appeal the decision of the hearing board and/or the sanction(s) imposed on the Respondent by submitting a written appeal to the Title IX Coordinator within seven calendar days from the date of the final outcome letter. The decision of the hearing board and the sanction imposed on the Respondent may, if desired, be appealed simultaneously. A party wishing to appeal may request and receive access to the audio recording and/or transcript of the hearing.

- (a) **Grounds for Appeal.**
 - (i) **Appeals of Responsibility.** The following are the only permissible grounds for an appeal of the hearing board's responsibility determination: (1) a procedural irregularity significantly affected the outcome of the matter; and (2) new evidence is available that was not reasonably available at the time the determination regarding responsibility was made that could significantly affect the outcome of the matter.
 - (ii) **Appeals of Sanctions.** The following is the only permissible grounds for an appeal of the sanctions imposed on the Respondent: the severity of the sanction imposed is

incommensurate to the gravity of the Sexual Misconduct for which the Respondent was found responsible.

- (b) Notice of the Appeal and Composition of the Appeals Board.** The Title IX Coordinator will promptly inform the other party of the filing of the appeal. If the non-appealing party wishes to submit a written response to the appeal, he or she must do so in writing to the Title IX Coordinator within three calendar days of the notification of the filing of the appeal.

The Title IX Coordinator will also, in consultation with the Dean of Students (if the Complaint involves students), the Assistant Vice President for Human Resources (if the Complaint involves staff members) and/or the Dean of Faculty (if the Complaint involves faculty members) appoint the members of the appeals board. The appeals board will include at least three faculty and/or staff members, of which one will be designated as the chair. The Dean of Faculty and Title IX Coordinator will attempt to assign three faculty members for cases involving only faculty members, and the Assistant Vice President for Human Resources and the Title IX Coordinator will attempt to assign three staff members for cases involving only staff members. In addition, the appeals board will include at least one faculty member when one of the parties is a faculty member and at least one staff member when one of the parties is a staff member.

The Title IX Coordinator will share the Complaint, the investigative report, any audio recording and/or transcript of the hearing proceedings, any statements introduced at the hearing, and any other evidence considered by the hearing board, the written findings of the hearing board, and the written appeal submissions of the parties with the appeals board. In addition, if an appeal raises procedural issues, the Title IX Coordinator may provide the appeals board additional information relevant to the issues raised in the appeal.

- (c) Decision of the Appeals Board.** Within ten business days of the receipt of the appeal (or as soon as is reasonably practicable), the appeals board will determine by majority vote (i) that the decision of the hearing board should stand or (ii) that the decision of the hearing board should be overturned. In the event that the appeals board determines that the decision of the hearing board should be overturned, the appeals board will specify, after consultation with the Title IX Coordinator and other University administrators, as it deems appropriate, the appropriate steps to be taken to come to a final resolution of the Complaint (which may or may not include an additional hearing before a different hearing board, or a hearing before the same or a different hearing board solely to reconsider sanctions).

- (d) Appeal Outcome Letter.** The Title IX Coordinator will notify the Complainant and the Respondent of the appeals board's decision and the rationale therefor concurrently and in writing. If another hearing is convened before a hearing board for the sole purpose of considering sanctions, the final sanctions set by the hearing board and approved by the Title IX Coordinator will not be subject to further appeal.

PART IV. ALTERNATIVE RESOLUTION

Section 4.01 Election of Alternative Resolution.

At any time prior to the hearing, a Complaint may be resolved through the alternative resolution process set forth in this Part IV, provided that (1) the Complainant and the Respondent both voluntarily consent in writing to alternative resolution; (2) the Complainant and the Respondent are both students or are both employees of the University; and (3) the Title IX Coordinator determines that alternative resolution is an appropriate mechanism for resolving the Complaint. Alternative resolution may not be selected for less than all of the misconduct alleged in the Complaint.

Section 4.02 Alternative Resolution Facilitator.

When the Complaint is to be resolved according to the alternative resolution process, the Title IX Coordinator will designate a trained individual to serve as the alternative resolution facilitator. The Title IX Coordinator may involve other individuals as he or she deems beneficial to the process (e.g., a Human Resources representative for matters involving employees).

Section 4.03 Notice to the Parties.

The Title IX Coordinator will provide to the parties a written notice disclosing the allegations, explaining the requirements of the alternative resolution process, and identifying and providing contact information for the alternative resolution facilitator.

Either party may challenge the participation of the alternative resolution facilitator by submitting a written objection to the Title IX Coordinator within three calendar days of receipt of the notice. Such objection must state the specific reason(s) for the objection. The Title IX Coordinator will evaluate the objection and determine whether to assign a different alternative resolution facilitator. Any substitution of the alternative resolution facilitator will be provided in writing to both parties prior to the date of the alternative resolution.

Section 4.04 Meetings with the Alternative Resolution Facilitator.

The alternative resolution facilitator will meet separately with each party to review the alternative resolution process and the allegations in the Complaint and to identify the outcome each party seeks from the alternative resolution process.

The alternative resolution facilitator will provide written notice to the Complainant and the Respondent setting forth the date, time, and location of the alternative resolution meeting(s) (which will generally begin no more than ten business days, or as soon as reasonably practicable, following the conclusion of the facilitator's initial meetings with the parties). At the request of either party or at the discretion of the alternative resolution facilitator, an alternative resolution meeting may occur with parties in different locations, or multiple alternative resolution meetings with parties may take place on different dates.

Section 4.05 The Alternative Resolution.

Both the Complainant and the Respondent are expected to participate in the alternative resolution. If either party fails to participate in the alternative resolution, and such party was provided proper notice of the alternative resolution as set forth above, then absent extenuating circumstances, the Title IX Coordinator

may direct that resolution of the Complaint be determined according to the applicable formal resolution process or may reschedule the alternative resolution.

During the alternative resolution process, the parties may (1) engage one another in the presence of, and/or facilitated by, the alternative resolution facilitator; (2) communicate their feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with one another or by communicating indirectly through the alternative resolution facilitator); (3) relay their wishes and expectations regarding the future; and/or (4) come to an agreed-upon resolution of the allegations in the Complaint.

During the alternative resolution, the alternative resolution facilitator will attempt to facilitate the parties' resolution of the Complaint.

Measures that parties agree to in the alternative resolution process may include (but are not limited to):

- Alcohol education classes;
- Completion of online sexual harassment training;
- Completion of a batterer intervention program;
- Regular meetings with an appropriate university individual, unit, or resource;
- Permanent no contact order;
- Restrictions from participation in certain activities, organizations, programs or classes;
- Change in residential assignment or restrictions on access to certain residence halls or apartments;
- Restrictions on participation in certain events;
- Reflection paper or written apology;
- Counseling sessions; or
- Completion of an education or behavioral plan.

If this process results in a resolution between the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances (giving consideration to factors including the extent to which the resolution will protect the safety of the Complainant and the entire school community), the resolution will be reduced to writing and the process will be concluded and the Complaint closed. If the parties are unable to reach a resolution, the applicable formal resolution process will promptly commence.

Section 4.06 Written Agreement.

To be effective, any agreement reached during the alternative resolution process must be memorialized in writing and signed by each of the parties, the alternative resolution facilitator, and the Title IX Coordinator. If a Respondent completes all measures agreed to in the resolution agreement, no further University process is available for the allegations in the Complaint. If a student Respondent fails to complete all measures agreed to in the resolution agreement, he or she will be charged with Failure to Comply under the University's Student Conduct Code. If an employee Respondent fails to complete all measures agreed to in the resolution agreement, or will be disciplined under applicable employee disciplinary policies.

Section 4.07 Termination of Alternative Resolution Process.

At any time prior to completing a resolution agreement, either the Complainant or the Respondent may withdraw from, or the Title IX Coordinator may terminate, the alternative resolution process and the applicable grievance procedures will resume.

Section 4.08 Confidentiality of Information Shared.

Any statements that the parties make during the alternative resolution process cannot be introduced in any other investigative or adjudicative proceeding at the University, including if the alternative resolution process is terminated and a formal resolution process resumes under this Policy.

Section 4.09 Timeframe.

The alternative resolution process generally will be completed within 30 calendar days of the filing of the Complaint or the election of the alternative resolution process, whichever is later.

Section 4.10 Appeals.

A resolution reached pursuant to the alternative resolution process is final and not subject to appeal. Similarly, a Complainant may not file a second Complaint regarding allegations that have been resolved pursuant to the alternative resolution process.

EXHIBIT A

Important Contact Information

University Resources

Furman University's Title IX & ADA/Section 504 Coordinator is Melissa Nichols, whose office is in Suite 215 of the Trone Student Center. Ms. Nichols may be contacted by phone at 864-294-2221 or by email at melissa.nichols@furman.edu. Ms. Nichols's mailing address is 3300 Poinsett Highway, Greenville, South Carolina 29613.

The **Furman University Police Department** is located in Estridge Commons and is available by phone at 864-294-2111. Furman University Police Officers are available 24/7.

Earle Student Health Center is available by phone at 864-294-2180. The office is staffed from 8:00 a.m. until 6:00 p.m. Monday through Friday during the academic term.

The **Division of Student Life** is located in the Trone Student Center and is available by phone at 864-294-2202. The office is staffed from 8:30 a.m. until 5:00 p.m. Monday through Friday. The **Vice President for Student Life**, Connie Carson, may be contacted through this office.

The **Office of Human Resources** is located at 5013-D Old Buncombe Road and is available by phone at 864-294-2217. The office is staffed from 8:30 a.m. until 5:00 p.m. Monday through Friday. The **Assistant Vice President for Human Resources**, Sharen Beaulieu, may be contacted through this office.

The **Counseling Center** is located in the lower level of Earle Student Health Center and is available by phone at 864-294-3031. The Center is staffed from 8:30 a.m. until 5:00 p.m. Monday through Friday.

The **Campus Conduct Hotline** (866-943-5787) gives faculty, staff, and students a simple, anonymous way to alert administrators of Sexual Misconduct. To use the Campus Conduct Hotline, [click here](#) or call 866-943-5787.

Community Resources

Local Law Enforcement (the Traveler's Rest Police Department) can be reached by calling 911 (or, for non-emergency matters, by calling 864-834-9029).

Greenville Memorial Hospital is located at 701 Grove Road in Greenville. The Emergency Department can be reached at 864-455-7000.

North Greenville Hospital is located at 807 Main Street in Travelers Rest. The Emergency Department can be reached at 864-455-9206.

Greer Memorial Hospital is located at 830 South Buncombe Road in Greer and is available by phone at 864-797-8000.

St. Francis Hospital is located at 1 St. Francis Drive in Greenville and is available by phone at 864-255-1000.

The **Julie Valentine Center** is located at 2905 White Horse Road in Greenville and is available by phone at 864-331-0560. Its **rape crisis hotline** is available 24/7 at 864-467-3633.

South Carolina Victims Assistance Network provides free legal assistance to survivors of sexual assault. They can be reached at 803-750-1200 Option 2 for the Legal Assistance to Victims Program.

South Carolina Legal Services provides reduced-fee legal assistance and can be reached at 888-346-5592.

Safe Harbor has a 24/7 crisis line available at 1-800-291-2139.

EXHIBIT B

Suggested Actions for People Who Have Experienced Sexual Assault

While all types of Sexual Misconduct are inappropriate and taken seriously by the University, actions involving Sexual Assault, Dating Violence, Domestic Violence and Stalking are particularly concerning. Thus, if you have experienced one of these offenses, the University's first priority is to help you take steps to address your safety, medical needs, and emotional well-being. You are encouraged to take the following actions, as applicable, regardless of whether you have made a decision about whether to pursue a University Complaint or a criminal complaint.

1. Ensure Your Physical Safety.

You may seek help from **local law enforcement agencies** or by contacting the **Furman University Police Department**. The Furman University Police Department can assist you with contacting local law enforcement and can help you obtain transportation to the local law enforcement office. Officers are on duty at the Furman University Police Department 24 hours a day, seven days a week.

2. Seek Medical Assistance and Treatment.

Local options for medical care include **Earle Student Health Center, North Greenville Hospital, Greer Memorial Hospital, St. Francis Hospital, and Greenville Memorial Hospital**. It is crucial that you obtain medical attention as soon as possible after a sexual assault to determine the extent of physical injury and to prevent or treat sexually transmitted diseases (such as HIV). Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs).

Employees at the Earle Student Health Center can help you obtain transportation to North Greenville Hospital or Greenville Memorial Hospital and can help you contact a support person, such as a family member, a friend, or a roommate.

If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 120 hours. Even if you have not decided whether to file charges, it is advisable to have the evidence collection kit completed so that you can better preserve the options of obtaining a protective order and/or filing criminal charges at a later date if you so choose. St. Francis Hospital, Greenville Memorial Hospital, and Greer Memorial Hospital administer evidence collection kits.

It is advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before an evidence collection kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

3. Obtain Emotional Support

The Counseling Center can help students sort through their feelings and begin the recovery process. The professionals at the Counseling Center are trained to provide crisis intervention on short-term and emergency issues. The Counseling Center can also provide referral services for outside providers and law enforcement. Counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors. However, absent a legal mandate to the contrary, counseling services are strictly confidential and will not be reported to other University personnel.

Employees may contact the Employee Assistance Program to obtain emotional support (available at: 877-595-5281). Employees can also speak confidentially with an ombudsperson (Dr. Joe Pollard and Dr. Victoria Turgeon for faculty and Dr. Gary Clark for staff).

4. Obtain Information/Report Misconduct

You are encouraged to report incidents of Sexual Assault to the University's **Title IX Coordinator** (even if you have filed a report directly with law enforcement). The Title IX Coordinator can help you access resources and can provide you with support and information, including information on the University's procedures for investigating and addressing instances of Sexual Assault.

SEXUAL MISCONDUCT COMPLAINT FORM (page 2 of 2)

By filing this Complaint form, I am requesting that Furman take the following action (select one):

- Initiate the grievance process and investigate the incidents described in this Complaint; or
- Initiate the Alternative Resolution Process.

I understand that I can decide to withdraw from either the Formal Resolution Process or the Alternative Resolution Process at any time.

Signature of the Complainant

Date

This section to be completed by Title IX Coordinator or designee

Complaint Take By:

Printed Name

Date

Signature