

ACPHS 2020 Title IX Policies *as of 8-10-2020*
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Albany College of Pharmacy and Health Sciences (ACPHS) Sexual Harassment Policies and Procedures

Based on the Title IX Final Rule, ACPHS will implement the following Title IX Grievance Policy, effective August 14, 2020.

1. INTRODUCTION

Statement of Policy

The Albany College of Pharmacy and Health Sciences (“ACPHS” or the “College”) is committed to creating and maintaining an academic environment free of sexual misconduct and sexual harassment for all of its students. ACPHS strives to provide a safe environment for students and to ensure that no one is excluded from participation in or denied the benefits of the College’s programs or activities because of the person’s sex/gender.

What is the purpose of the Title IX Grievance Policy?

Title IX of the Educational Amendments of 1972 (“Title IX”) prohibits any person in the United States from being discriminated against on the basis of sex/gender in participating in or seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX’s prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student’s ability to equally participate in or access the College’s educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of “sexual harassment” (including forms of sex-based violence)
 - Addresses how recipients of federal funding, such as Albany College of Pharmacy and Health Sciences (ACPHS) **must** respond to reports of misconduct falling within that definition of sexual harassment, and
 - Mandates a grievance process that ACPHS **must** follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

ACPHS is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment and retaliation in violation of this Policy. To ensure compliance with applicable federal and state laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the College’s educational programs and activities, ACPHS has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment or retaliation that falls within the jurisdiction of this Policy.

ACPHS values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

How does the Title IX Grievance Policy impact other campus disciplinary policies?

In recent years, “Title IX” cases have become a “short-hand” for any campus disciplinary process involving sex discrimination, including those arising from sexual harassment and sexual assault. But under the Final Rule, ACPHS must narrow both the geographic scope of its authority to act under Title IX and the types of “sexual harassment” that it must subject to its Title IX investigation and adjudication process. ***Only*** incidents falling within the Title IX Grievance Policy’s jurisdiction elements will be investigated and, if appropriate, brought to a live hearing through the Title IX Grievance Policy defined below.

ACPHS remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule. Other alleged sexual harassment and sexual misconduct violations outside of these jurisdiction elements will be addressed through other applicable campus disciplinary policies.

Specifically, ACPHS has a Student Disciplinary Code and an Employee Prohibition of Discrimination, Harassment, and Retaliation for Faculty and Staff Policy that defines certain behavior as a violation of campus policy including sexual harassment, sexual assault, domestic violence, dating violence, stalking and sex-based related offenses.

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined within the Student Disciplinary Code and the Employee Prohibition of Discrimination, Harassment and Retaliation Policy through a separate grievance proceeding.

The elements and procedures established in the Title IX Grievance Policy under the Final Rule have no effect and are not transferable to any other policy of the College for any alleged violation of the Student Disciplinary Code, employment policies, or any other College policy except as narrowly defined in this Policy. This Policy does not set a precedent for other policies or processes of the College and may not be cited for or against any right or aspect of any other policy or process that the College maintains.

2. DEFINITIONS

- *Advisor of Choice*: A person chosen by a Complainant or Respondent or appointed by ACPHS to accompany the party to meetings related to the investigation and adjudication process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any. An Advisor of Choice may be any person, including an attorney. With the exception of an Advisor appointed by the College for purposes of cross-examination at the live hearing, the College will not pay for

an Advisor of Choice. An Advisor of Choice's role is limited to the functions described in this Policy.

- *Complainant*: An individual who is alleged to be the victim of conduct that could be sexual harassment in violation of this Policy, whether or not a formal complaint is filed. In some cases, the Title IX Coordinator may file a formal complaint and thereby initiate an investigation and adjudication process pursuant to this Policy. In that instance, the Title IX Coordinator is not the "Complainant"; the complainant remains the person who allegedly experienced the sexual misconduct.
- *Complaint (Formal)*: A document or electronic submission (such as electronic mail or through an online portal provided for this purpose by ACPHS) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, alleging sexual harassment or retaliation conduct as defined under this Policy against a Respondent and requesting that ACPHS investigate the allegation. This document must be filed with the Title IX Coordinator. A Formal Complaint is necessary to initiate an investigation and adjudication process.
- *Confidential Resource*: An employee who is not a Responsible Employee of notice of harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status). See below *Privacy vs. Confidentiality*.
- *Day*: A "day" as described under this policy refers to business days when ACPHS is in normal operation.
- *Education Program or Activity*: Locations, events, or circumstances where ACPHS exercises substantial control over both the Respondent and the context in which the sexual harassment occurs. This includes any on-campus premise as well as any building owned or controlled by a student organization that is officially recognized by ACPHS. This also includes activities occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of ACPHS's programs and activities over which ACPHS has substantial control.
- *Final Determination*: A determination following the investigation and adjudication process provided for in this Policy as to whether there is sufficient evidence to conclude, by a preponderance of the evidence, that the alleged conduct did or did not violate policy.
- *Formal Grievance Process*: A method of formal resolution designated by ACPHS to address conduct that falls within the jurisdiction of this Policy, inclusive of the investigation and adjudication of alleged violations of this Policy, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).

- *Hearing Decision-Maker*: The single decision-making and sanctioning authority within ACPHS's Formal Grievance process as discussed below, that may or may not be external to the College.
- *Investigator*: The person or persons appointed by ACPHS, that may or may not be external to the College, to conduct an investigation into the allegations set forth in the Formal Complaint. The investigation will include interviewing witnesses, reviewing documentation, and otherwise gathering facts that relate to the alleged violation(s) of this Policy, synthesizing the evidence, and compiling this information into an investigation report and file for consideration by the Decision-maker.
- *Responsible Employee*: An employee of ACPHS who is obligated by policy to share knowledge, notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator. Unless specifically designated as a Confidential Resource, all employees of ACPHS are considered Responsible Employees.
- *Notice*: Communication that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of an alleged occurrence of harassing, discriminatory, and/or retaliatory conduct that allegedly violates this Policy.
- *Official with Authority (OWA)*: An employee of ACPHS explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the College. OWAs include the Title IX Coordinator, Deputy Coordinator, Vice-President of Human Resources, and the Student Disciplinary Code Administrator.
- *Parties*: Refers to the Complainant(s) and Respondent(s) collectively.
- *Privacy vs. Confidentiality*: Consistent with the Student Disciplinary Code, references made to "*confidentiality*" refer to the ability of identified confidential resources to not report alleged violations of this Policy to law enforcement or college officials without permission, except for extreme circumstances, such as a health emergency or child abuse. References made to *privacy* mean ACPHS offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed to a non-confidential resource will be relayed only as necessary for the College to investigate and/or seek a resolution and/or to notify the Title IX Coordinator, who is responsible for tracking patterns and identifying systemic issues that present a threat to campus safety. ACPHS will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored. If a Complainant discloses an incident to a College employee who is responsible for responding to or reporting a violation of this Policy but wishes to maintain confidentiality or does not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh the request against the College's obligation to provide a safe, non-discriminatory environment for all members of its community. The College shall assist with academic, transportation, employment, and other reasonable and available accommodations regardless of reporting choices.

- *Remedies*: Post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to ACPHS's educational program. Remedies are distinct from sanctions that are imposed as a result of a violation of this Policy.
- *Respondent*: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or other conduct in violation of this Policy.
- *Resolution*: The result of an Informal Resolution or Formal Grievance Process.
- *Sanction*: A consequence imposed by ACPHS on a Respondent who is found to have violated this policy.
- *Sexual Harassment*: The umbrella term used in this Policy which refers to any form of conduct prohibited by this Policy, including the offenses of sexual harassment, sexual assault, stalking, dating violence and domestic violence. See detailed definitions in the DEFINING SEXUAL HARASSMENT section.
- *Title IX Coordinator*: One official designated by ACPHS to ensure compliance with Title IX and the College's Title IX program. The Coordinator has the primary responsibility for coordinating ACPHS's efforts related to the intake/Formal Complaint, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment, and retaliation prohibited under this policy. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

3. DEFINING SEXUAL HARASSMENT

As discussed above, Title IX provides: "No person in the United States shall, on the basis of sex, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." "On the basis of sex" includes sex, gender, sexual orientation, gender identity and transgender status.

In accordance with Title IX as interpreted by the United States Department of Education, the College recognizes the following as conduct violations within the meaning of Title IX, provided that the context and circumstances of the conduct fall within the scope of Title IX, including, but not limited to, that the Complainant was in the United States at the time of the alleged conduct, that the Complainant was participating in or seeking to participate in the College's education program or activity at the time of the complaint, and that the conduct occurred in the context of the College's education program or activity:

1. **Sexual harassment.** "Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

- a. An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct (commonly referred to as a "quid pro quo");
 - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity (commonly referred to as a sexually or gender-based "hostile environment").
2. **Sexual assault.** "Sexual assault" is a sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault consists of the following specific acts:
- a. **Non-consensual Intercourse/Rape.** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
 - b. **Non-consensual Sexual Contact/Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. Private body parts include the following: genital area, anus, groin, buttocks, or breast. This definition includes contact over or under clothing.
 - c. **Incest.** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. **Statutory Rape.** Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17. The statutory age of consent in Vermont is 16.
3. **Dating violence.** "Dating violence" means violence committed by a person on the basis of sex: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.
4. **Domestic violence.** "Domestic violence" means violence on the basis of sex 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 where the College is located, 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.

5. **Stalking.** "Stalking" is engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress. Stalking that does not occur on the basis of sex may be addressed under other applicable College policies.

In addition to those offenses that constitute Sexual Harassment as provided for above, such conduct is also prohibited even if it occurs off-campus, outside the United States, the Complainant is not participating or seeking to participate in the College's education program or activity, or otherwise in circumstances over which the College does not have influence or control, including but not limited to during College academic breaks. However, the College reserves the right to not respond to, investigate or adjudicate circumstances in which no College interest is implicated. Additional offenses that constitute a violation of this Policy include:

1. **Sexual Exploitation.** Sexual exploitation occurs when, without affirmative consent, a person takes sexual advantage of another in a manner that does not constitute another violation under this Policy. Examples of sexual exploitation include, but are not limited to: prostitution, acts of incest, observing or recording (whether by video, still photo or audio tape) of a sexual or other private activity (such as consensual sexual activity, undressing or showering) without the affirmative consent of all involved; taking intimate pictures of another, but then distributing the pictures to others without the photographed person's affirmative consent; engaging in voyeurism, engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of such infection; or exposing one's genitals in non-consensual circumstances.
2. **Retaliation.** Retaliation is an adverse act perpetrated to "get back" at a person because the person reported sexual misconduct, filed a complaint, or participated in an investigation or proceeding conducted pursuant to this policy by the College or by an external agency. An act of retaliation may be anything that would tend to discourage an individual from reporting sexual misconduct, pursuing an informal or formal complaint, or from participating in an investigation or adjudication as a party or a witness. A person who acts in good faith is protected from retaliation. The fact that a statement is not determined to be proven or established following investigation and adjudication does not mean that the statement lacked good-faith; a person may provide inaccurate information believing it is accurate, which is still good-faith. If a person who makes a statement knowing that it is false, the person has acted without good faith.

Coercion: Coercion is a threat, undue pressure, or intimidation to engage in sexual activity. Coercive conduct differs from an effort to persuade, seduce, entice, or attract another person to engage in sexual activity. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to freely choose whether or not to engage in sexual activity. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be considered coercive.

Affirmative Consent: Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of affirmative consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Any references to consent in this policy refer to affirmative consent. Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

The following guidelines regarding consent apply:

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied.

As noted above, consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether sexual conduct occurred with affirmative consent and whether this Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including, but not limited to, the context in which the alleged incident occurred, whether an incident was isolated or part of a broader pattern or course of conduct, the seriousness of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual and the learning or working community.

Incapacitation: A person cannot consent if they are incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. A person cannot consent if they are unaware of the who, what, when and how of a sexual interaction. Incapacitation may be caused by the unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent. A person who has been drinking or using drugs is still responsible for ensuring that the person has the other's affirmative consent and/or appreciating the other person's incapacity to consent. This means that even if the accused was drunk or impaired by drugs and, as a result, did not realize that the other person was not consenting to or was unable to consent to sexual activity, the person who committed the non-consensual act is still responsible for having violated the Policy.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

Online Sexual Harassment and/or Retaliation

The policies of ACPHS are written and interpreted broadly to include online manifestations of any of the behaviors prohibited above, when those behaviors occur in or have an effect on ACPHS's education program and activities or use ACPHS networks, technology, or equipment.

Although ACPHS may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to ACPHS, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the ACPHS community.

4. GENERAL RULES OF APPLICATION

Nondiscrimination in Application of this Policy

ACPHS applies the protections set forth in this Policy regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or any other characteristic protected by applicable federal, state, or local law.

All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness.

Non-ACPHS Member Complaint Application

When the Respondent is a member of the ACPHS community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the ACPHS community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers.

The College maintains a separate policy related to Mandatory Reporting and Prevention of Child Sexual Abuse which can be found in the Employee Handbook.

The procedures outlined in this policy may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

Independence and Conflict-of-Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest, or misconduct, by the Title IX Coordinator, contact the Vice President of Student Affairs. Concerns of bias or a potential conflict of interest, or misconduct, by any other Title IX Team member should be raised with the Title IX Coordinator.

Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

Disability Accommodations

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Privacy

Privacy means that information related to a Complaint will be shared with a limited number of ACPHS employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

Every effort will be made by ACPHS to preserve the privacy of reports for any Complainant, any individual who has been reported to be the perpetrator of sexual harassment or retaliation, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), FERPA regulations, or as required by law; or to carry out the purposes of Title IX, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

ACPHS reserves the right to determine which ACPHS officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Amnesty for Complainants and Witnesses

The health and safety of every student at ACPHS is of utmost importance. ACPHS recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. ACPHS strongly encourages students to report

domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to the College's officials or law enforcement will not be subject to the College's code of conduct action (including but not limited to action under this policy) for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault. The College reserves the right to provide amnesty in additional circumstances.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action under the Student Code of Conduct. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under ACPHS policy.

Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to ACPHS jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When a notice/complaint is affected by significant time delay, ACPHS will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of the notice/complaint.

Recordkeeping

ACPHS will maintain for a period of seven (7) years records related to investigations and adjudications related to any Formal Complaint. ACPHS will also maintain any and all records in accordance with state and federal laws.

5. RESPONSIBLE EMPLOYEE REPORTING

Unless designated as a Confidential Resource, all ACPHS employees (faculty, staff, administrators) are expected to report actual or suspected sexual harassment or retaliation that may potentially violate this Policy.

All employees of ACPHS (including student employees) are Responsible Employees and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Failure of a Responsible Employee, as described above in this section, to report an incident of sexual harassment or retaliation of which they become aware is a violation of ACPHS policy and can be subject to disciplinary action for failure to comply.

Confidential Resources

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected sexual harassment or retaliation. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared. If a Complainant expects formal action in response to their allegations, reporting to any Responsible Employee can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors and staff
- Athletic trainers
- Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local victim advocates
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor, elderly, and/or disabled, or when required to disclose by law or court order.

Campus counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours. Please see APPENDIX C Confidential Resources.

At the request of a Complainant, notice may be given by a Responsible Employee to the Title IX Coordinator anonymously, without identification of the Complainant. The Responsible Employee cannot remain anonymous.

If a Complainant has requested that a Responsible Employee maintain the Complainant's anonymity, the Responsible Employee may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Responsible Employee should consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by ACPHS to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, anonymous notice typically limits the ACPHS's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Responsible Employee, but all other details must be shared with the Title IX Coordinator. Responsible Employees are not able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled,

6. NOTICE/COMPLAINTS/REPORTS OF SEXUAL HARASSMENT AND/OR RETALIATION

Any person may report allegations of sexual harassment in violation of this Policy (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:

Name: Chantelle Botticelli
Title: Title IX Coordinator
Office Address: Library 309
Email Address: TitleIX@acphs.edu
Telephone Number: 518-694-7855

Notice or complaints of sexual harassment and/or retaliation may be made using any of the following options:

- 1) File a complaint with, or give verbal notice to, the Title IX Coordinator, Officials with Authority, or a Responsible Employee. Such a report may be made at any time

(including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

2) Anonymous reports are accepted but can give rise to a need to investigate. ACPHS tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as ACPHS respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the College to discuss and/or provide supportive measures.

7. FILING A FORMAL COMPLAINT

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner. Absent extenuating circumstances, the College will endeavor to resolve formal complaints within sixty to ninety business days. The Grievance Process may be extended for a good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; intervening college breaks, or the need for language assistance or accommodation of disabilities.

Any time the general timeframes for resolution outlined in the process will be delayed, the Title IX Coordinator will provide written notice to the Parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

To file a Formal Complaint, a Complainant must provide the Title IX Coordinator a written, signed Complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of ACPHS, including as an employee. For Complainants who do not meet this criteria, the College reserves the right to process the complaint using other College policies, such as the Student Conduct Process and the Employee Prohibition of Discrimination, Harassment, and Retaliation Policy applicable to employees. A third-party or anyone other than the victim of the misconduct may not file a Formal Complaint. However, a Formal Complaint may be filed by a parent or guardian of a minor person.

If a Complainant does not wish to make a Formal Complaint or does not wish to participate in the complaint and adjudication process, or the Complainant's identity is unknown, and the Title IX Coordinator determines there is sufficient cause to file a Formal Complaint, the Title IX Coordinator may file a formal complaint. The Title IX Coordinator will inform the Complainant of this decision in writing, and the Complainant need not participate in the process further but will receive all notices issued under this Policy and Process. In such cases, the Title IX Coordinator is not considered to be a Complainant or other party under this Policy.

The Title IX Coordinator will consider the wishes of the Complainant not to proceed with the investigation and adjudication process. However, the Title IX Coordinator may file a formal complaint if the Title IX Coordinator determines that the allegations are such that it would be

unreasonable not to proceed despite the wishes of the Complainant. In making this determination, the Title IX Coordinator will consider, among other factors:

- the risk that the alleged perpetrator will commit additional acts of sexual misconduct or other violence, which may be assessed by evaluating:
- whether there have been other complaints about the same alleged perpetrator;
- whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
- whether the sexual violence was committed by multiple perpetrators whether the sexual violence was perpetrated with a weapon;
- whether the victim is a minor;
- whether the university possesses other means to obtain relevant evidence of the prohibited conduct (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

Additionally, where the Respondent is not enrolled at the College and is not employed by the College, ACPHS may decline to process the Complaint through the Grievance Process. The College may take the steps it deems appropriate under the circumstances.

Nothing in the Title IX Grievance Policy or the Student Disciplinary Code prevents a Complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

Multi-Party Situations

ACPHS may consolidate Formal Complaints alleging sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

8. INITIAL ASSESSMENT

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator will engage in an initial assessment, typically within one to five business days following receipt of information related to an alleged violation.

The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator will seek to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a Formal Complaint because a violence risk assessment indicates a compelling threat to health and/or safety (as described above).

- If a Formal Complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
 - The Title IX Coordinator will reach out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor of Choice.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a Formal Investigation and Grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the Complaint is suitable for Informal Resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
 - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
 - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate concern based on the nature of the complaint.
 - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which other College policies may apply to the alleged conduct. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit ACPHS’s authority to address a complaint with an appropriate process and remedies.
 - Notice of dismissal of a Formal Complaint will be in writing and issued to both the Complainant and Respondent. The Title IX Coordinator may determine at any point in the process that facts have emerged that require the dismissal of a Formal Complaint. A decision to dismiss a Formal Complaint, or an allegation contained in the Formal Complaint, is appealable as described below.
- The Title IX Coordinator may, but is not required to, dismiss formal complaints in the following circumstances:
 - When the complainant withdraws a Formal Complaint.
 - When the respondent is no longer enrolled in or employed by the College; and
 - Where specific circumstances prevent the College from gathering evidence (such as where a complainant refuses to cooperate but does not withdraw a formal complaint).

The decision to dismiss or not to dismiss a charge under these circumstances will depend on the totality of the situation.

9. SUPPORTIVE MEASURES

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to ACPHS's education program or activity, including measures designed to protect the safety of all parties or ACPHS's educational environment, and/or deter sexual harassment and/or retaliation.

The Title IX Coordinator will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation regardless of whether the Complaint desires to file a Formal Complaint.

ACPHS will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. ACPHS will act to ensure as minimal an academic impact on the parties as possible as well as unreasonably burden a party.

These actions may include, but are not limited to:

- Referral to counseling, medical and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
 - Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
 - Timely Warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, including coordinating with the various College departments and offices that may be involved. Supportive measures will be offered free of charge.

If a party's request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed to assess whether the supportive measure is reasonable under the circumstances. In addition, each party will, upon request, be afforded the opportunity for a prompt review of the need for supportive measures that have been implemented, including the potential modification of these measures, to the extent that the party is affected by the measure(s) being reviewed. Each party will be allowed to submit evidence in support of, or in

opposition to, the request to the extent the supportive measures under review affects that party. Information about how to request a review will be included in a written communication that will outline the supportive measures offered and any that were requested by the party but denied.

Timely Warnings

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, ACPHS must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

ACPHS will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

ACPHS can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

This risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Intervention Team, also known as BIT, using a standard objective violence risk assessment procedures.

Emergency Removal

In some cases, the College will undertake an emergency removal of a student Respondent in order to protect the safety of the College community, which may include contacting local law enforcement to address imminent safety concerns.

Emergency removal is not a substitute for reaching a determination as to a Respondent's responsibility for the sexual harassment allegations; rather, emergency removal is for the purpose of addressing imminent threats posed to any person's physical health or safety, which may arise out of the sexual harassment allegations.

Prior to removing a student Respondent through the emergency removal process, the College will undertake an individualized safety and risk analysis. If the individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student, including the student Respondent, or other individual justifies removal, then a student Respondent will be removed. This is the case regardless of the severity of the allegations and regardless of whether a Formal Complaint was filed.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

After determining a student Respondent is an immediate threat to the physical health or safety of an individual, the Title IX Coordinator will provide written notice of the emergency removal to both the complainant and respondent. This notice will contain: (1) the date the removal is set to begin, (2) the reason for the emergency removal, (3) the consequences of non-compliance, and (4) how to appeal the decision.

If a student Respondent disagrees with the decision to be removed from campus, the Respondent may appeal the decision. The Respondent must provide written notice of the intent to appeal, which shall include the substance of the appeal, to the Vice-President of Student Affairs within three (3) business days of receiving the notice of removal. The burden of proof is on the student respondent to show that the removal decision was incorrect.

ACPHS will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

This section applies only to student Respondents. Employee Respondents are not subject to this section and may be placed on administrative leave (as discussed below), during the pendency of a Title IX grievance process.

Administrative Leave

Where the Respondent is an employee, existing provisions for interim action are applicable. ACPHS retains the authority to place a non-student employee Respondent on unpaid administrative leave during the Title IX Grievance Process, consistent with the Employee Prohibition of Discrimination, Harassment, and Retaliation Policy.

10. DETERMINING JURISDICTION

This policy applies to the education program and activities of ACPHS, to conduct that takes place on the campus or on property owned or controlled by ACPHS, at ACPHS-sponsored events, or in buildings owned or controlled by ACPHS's recognized student organizations. The Respondent must be a member of ACPHS's community in order for a Formal Complaint to be pursued under this Policy.

Title IX Grievance Policy Elements of Jurisdiction

The Title IX Coordinator will determine if the Title IX Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred in the United States;
2. The conduct is alleged to have occurred in ACPHS's education program or activity;
and
3. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, ACPHS will investigate the allegations according to the Title IX Grievance Process. If all of these elements are not met see DISMISSAL process below.

Regardless of where the conduct occurred, ACPHS will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity.

Substantial ACPHS Interest

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to ACPHS's educational program. ACPHS may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial ACPHS interest.

A substantial ACPHS interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of ACPHS.

Non-ACPHS Respondent

If the Respondent is unknown or is not a member of the ACPHS community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the Recipient's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, ACPHS may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from ACPHS property and/or events.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sexual harassment or retaliation in an externship, study abroad program, or other environment external to ACPHS where sexual harassment policies and procedures of the facilitating or host organization may give recourse to the Complainant.

Allegations Potentially Falling Under Two Policies

If the alleged conduct, if true, includes conduct that would constitute sexual harassment under the jurisdiction elements of Title IX Grievance Process AND conduct that would not fall under the jurisdiction elements constituting sexual harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all of the allegations.

11. DISMISSAL

ACPHS will review and assess all Formal Complaints but there are incidents in which the complaint will be dismissed from the Title IX Grievance Process.

Mandatory Dismissal

ACPHS must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
- The conduct did not occur in an educational program or activity controlled by ACPHS (including buildings or property controlled by recognized student organizations), and/or ACPHS does not have control of the Respondent; and/or
- The conduct did not occur against a person in the United States; and/or
- At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the

If any one of the jurisdiction elements are not met, the Title IX Coordinator will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Policy.

Discretionary Dismissal

The Title IX Coordinator may dismiss a Formal Complaint brought under the Title IX Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint, or any allegations raised in the Formal Complaint;
- The Respondent is no longer enrolled or employed by ACPHS; or,

- If specific circumstances prevent ACPHS from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

A Complainant who decides to withdraw a complaint may later request to reinstate it by a written statement to the Title IX Coordinator.

Any party may appeal a dismissal determination using the process set forth in “APPEALS,” below.

Notice of Dismissal

Upon reaching a decision that the Formal Complaint will be dismissed, the Title IX Coordinator will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their institutional email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

Upon dismissal of the Title IX Grievance Process, ACPHS retains discretion to refer the matter for further processing under other applicable College policies to determine if a violation has occurred. If so, the Title IX Coordinator will include this transfer of adjudication in the notice of dismissal.

12. PRESUMPTION OF NOT RESPONSIBLE

The Respondent is presumed not responsible for the alleged conduct until a determination of responsibility is made at the conclusion of the process, after all evidence is presented and evaluated.

13. NOTICE OF ALLEGATION(S) AND INVESTIGATION

The Title IX Coordinator will draft and provide the Notice of Allegations and Investigations to the Respondent and Complainant. Such notice will occur as soon as practicable, after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

Contents of Notice of Allegation and Investigation

The Notice of Allegations and Investigation will include the following:

- Notice of the institution’s Title IX Grievance Process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting sexual

harassment; and the date, time, location, and factual allegations of the alleged incident, if known.

- The precise misconduct being alleged, and policy provisions allegedly violated.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.
- A statement about ACPHS's policy of retaliation.
- Information on the privacy of the process.
- A statement of the potential sanctions/response action that could result.
- A statement informing the parties that ACPHS's Student Disciplinary Code and Employee Prohibition of Discrimination, Harassment and Retaliation prohibit knowingly making false statements, including knowingly submitting false information during the resolution process.
- Details on how the Party may request disability accommodations during the interview process.
- The New York State Student Bill of Rights.
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have.
- Instruction to preserve any evidence that is directly related to the allegations.

Ongoing Notice

If, in the course of an investigation, ACPHS decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations and Investigations and are otherwise "sexual harassment" falling within the Title IX Grievance Policy, the College will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

14. ADVISOR OF CHOICE AND PARTICIPATION OF ADVISOR OF CHOICE

Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend.

The parties may select whoever they wish to serve as their Advisor of Choice as long as the Advisor of Choice is eligible and available. Available means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot

have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

ACPHS may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

Who Can Serve as an Advisor of Choice?

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the ACPHS community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from ACPHS, the Advisor will be trained by the ACPHS and be familiar with ACPHS's resolution process.

If the parties choose an Advisor from outside the pool of those identified by ACPHS, the Advisor may not have been trained by ACPHS and may not be familiar with ACPHS policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing but would need an Advisor if there is a hearing.

ACPHS will not intentionally schedule meetings or hearings on dates where the Advisors for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

ACPHS's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and ACPHS cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. ACPHS will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor and may offer the party the opportunity to obtain a different Advisor of Choice.

See APPENDIXES D and E on ADVISOR ROLES AND RESPONSIBILITIES and RULES OF DECORUM FOR ADVISORS and the section on HEARING PROCEDURES for more details.

15. RESOLUTION TIMELINE

ACPHS will make a good faith effort to complete the resolution process within a sixty-ninety

(60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

Notice of Meetings and Interviews

ACPHS will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings, hearings, investigative interviews, , with sufficient time for the party to prepare to participate.

Delays

Each party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

For example, a request to take a five day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator shall have sole judgment to grant further pauses in the Process.

The Title IX Coordinator will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. ACPHS will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the Title IX Coordinator will implement supportive measures as deemed appropriate.

16. RESOLUTION PROCESSES

ACPHS will act on any formal or informal notice/complaint of sexual harassment that is received by the Title IX Coordinator or any other Official with Authority. Depending on the elements of the jurisdiction the resolution will be processed by applying the Title IX Grievance Policy outlined below or through another applicable College Policy if the matter is not within the jurisdiction of this Policy.

There are three different approaches to resolutions:

1. Informal Resolutions (Informal and Alternate)
2. Respondent Responsibility Accepted
3. Title IX Grievance Process

Informal Resolution proceedings are private. All persons present at any time during any resolution process are expected to maintain the privacy of the proceedings. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties

have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below. ACPHS encourages parties to discuss any sharing of information with their Advisors before doing so.

Informal Resolution

An Informal Resolution Process is a voluntary process in which either the Title IX Coordinator or a trained facilitator assists the parties in resolving the allegations made by a complainant. An Informal Resolution prioritizes educational and conciliatory approaches over more adversarial contestation of the facts. One objective of the Informal Resolution is to provide to the parties an opportunity to hear each other's concerns and address them as collaboratively and usefully for the parties as possible, with the assistance of the Title IX Coordinator or facilitator.

Informal Resolution can include two different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.
- When the parties agree to resolve the matter through an Alternate Resolution mechanism as described below, usually before a formal investigation takes place.

To initiate Informal Resolution, a Complainant needs to submit a Formal Complaint. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, ACPHS will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by ACPHS. The Title IX Coordinator would also complete a Violence Risk Assessment which results would determine this could be an appropriate resolution.

ACPHS will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

Alternate Resolution

At any time after a Formal Complaint has been filed and before a Hearing commences, the parties may seek to resolve a report of prohibited conduct through Alternate Resolution. Participation in Alternate Resolution is entirely voluntary; the Title IX Coordinator will neither pressure nor compel either Party to participate in the process or to agree to any specific terms.

In every case, the Title IX Coordinator, or trained designee, has discretion to determine whether the matter is appropriate for Alternate Resolution and to determine the appropriate terms. Factors to be considered in making this determination include the following:

- The Parties' amenability to Alternate Resolution
- Likelihood of potential resolution, taking into account any power dynamics between the parties. Alternate Resolution would likely not be an option for a student against a staff member or member of the faculty
- The parties' motivation to participate
- Civility of the parties
- Results of a violence risk assessment/ongoing risk analysis
- Disciplinary history
- Whether an emergency removal is needed
- Skill of the Alternate Resolution facilitator with this type of allegation
- Complaint complexity
- Emotional investment/capability of the parties
- Rationality of the parties
- Goals of the parties

Alternate Resolution will not involve mediation, or any face-to-face meetings, between the Complainant and the Respondent.

Before the Title IX Coordinator approves the Alternate Resolution process or the terms of any Alternate Resolution, the Title IX Coordinator will determine that the Parties have sufficient information about the matter to make these decisions.

Before the Alternate Resolution process commences, both the Complainant and the Respondent must agree to explore Alternate Resolution as a potential means of resolution.

The Parties are strongly encouraged, although not required, to consult with their Advisors and any support persons during the entire Alternate Resolution process. Advisors are permitted to participate in the Alternate Resolution process.

If the process is terminated for any reason, the matter will be resolved pursuant to the Formal Grievance Process under these procedures. For this reason, the Investigator will not participate in Alternate Resolution.

The Title IX Coordinator, or trained designee, will oversee the Alternate Resolution process and have access to all ACPHS records in the matter, including any records or reports prepared during an Investigation.

The Title IX Coordinator, or trained designee, will consult separately with both Parties and recommend to the Parties the terms of a potential Alternate Resolution agreement. Such terms may include, but are not limited to, any sanctions or remedies that could be imposed by a Decision-maker after a Hearing under these proceedings.

Both Parties must agree to the terms before an Alternate Resolution agreement becomes effective.

At any time before a written agreement is effective, the Complainant or the Respondent may withdraw from the Alternate Resolution process, and the Title IX Coordinator, or trained designee, may also, at their discretion, terminate the process. The Title IX Coordinator will promptly notify the parties, in writing, of a termination of the Alternate Resolution process and the Formal Complaint will be investigated and adjudicated pursuant to the Formal Grievance Process.

If the Respondent agrees to an Alternate Resolution that provides for a suspension, withdrawal, or dismissal (i.e. expulsion) from the College there will be a transcript notation consistent with ACPHS policy and applicable state law.

If both Parties are satisfied with the Title IX Coordinator's, or trained designee's, recommendation, the matter will be resolved with a written agreement. The Title IX Coordinator will provide each Party, separately, with a copy of the proposed agreement for the Party to review, sign, and return.

Once a Party has returned the signed agreement to the Title IX Coordinator, the terms of the agreement will become effective and the Title IX Coordinator will promptly notify both Parties in writing that the agreement is final, and not appealable.

Once the agreement is effective, the Parties may not appeal the agreement. The Parties are expected to honor and comply with the terms of the Alternate Resolution. Noncompliance may be subject to proceedings under the Student Conduct Process.

If the Alternate Process is terminated and the matter resolved pursuant to the Formal Grievance Process, neither the Title IX Coordinator, or trained designee, nor the parties will disclose to the Decision-maker/Chair or Appeal Panel either the fact that the parties had participated in the Alternate Resolution process or any information learned during the process.

Respondent Responsibility Accepted

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the Formal Grievance process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

The Title IX Coordinator will determine whether all Parties and ACPHS are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of ACPHS's policy. When a Respondent accepts responsibility for one or more allegations, those particular allegations will not be investigated, and the matter will proceed to the sanctioning phase.

The determination of responsibility is not subject to appeal once all Parties indicate their written assent to all agreed upon terms of resolution. In such a case, the Respondent does have a right to appeal the sanction. When the Parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

Formal Grievance Process

When the processes above are not agreeable, warranted, and appropriate for a resolution, the Complaint will move forward in the Formal Grievance Process. The Formal Grievance Process outlined in the sections below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrators, or faculty members.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with the reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Title IX Grievance Process will be addressed through procedures described in the student, faculty, and staff handbooks.

Ensuring Impartiality

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or a perceived conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another trained personnel will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Vice President of Student Affairs.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

17. INVESTIGATION

An investigator designated by the Title IX Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations. Investigations are completed expeditiously, normally within a month, though some investigations may take more than a month or months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, intervening school breaks, police involvement, etc.

The College's investigation may be temporarily delayed where there is a concurrent law enforcement investigation if necessary, to avoid interference with the law enforcement investigation. Any such delay shall not exceed ten (10) days unless the law enforcement agency requests and justifies a longer delay.

The Complainant and Respondent will be provided with notice of the name of the appointed investigator and an opportunity of not more than three (3) days after the notice to raise an objection to the investigator based on any alleged conflict of interest known to the party. If an objection is raised, the Title IX Coordinator will determine whether a conflict of interest in fact exists and necessitates the replacement of the investigator.

ACPHS will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

ACPHS and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from ACPHS and does not indicate responsibility.

During the investigation, ACPHS will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence that the party believes tends to prove or disprove the allegations as described in the GENERAL HEARING INFORMATION.

However, at all times, the burden of gathering evidence remains with the College. The Investigator may decline to interview any witness or to gather information the investigator finds to be not relevant or otherwise excludable (e.g., sexual history of the complainant with a person other than the respondent, materials subject to a recognized privilege, medical records in the absence of a release by the subject of the records, etc.). The investigator will determine the order and method of investigation.

18. INVESTIGATION PROCESS

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and

respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, not necessarily in this order:

- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Prior to the conclusion of the investigation, provide the parties with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included in the investigative report
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation, including evidence upon which ACPHS does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period. The investigator also will determine whether additional investigation is necessary and, if so, will complete any additional investigative steps
- The Investigator(s) shares the report with the Title IX Coordinator
- The Investigator(s) will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report
- Appropriate redactions will be made in accordance with applicable law

Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of ACPHS are expected to cooperate with and participate in ACPHS's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The Recipient will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

Evidentiary Considerations in the Investigation

The investigation will not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Inspection and Review of Evidence

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;

2. inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins.

If there is any evidence ACPHS will send the evidence to each party to inspect and review through an electronic format or hard copy. ACPHS is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report. This inspection and review of evidence is done in conjunction with the review of the draft Investigative Report.

ACPHS will provide copies of the parties' written responses to the investigator to all parties. Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors are prohibited from disseminating any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX Grievance Process. The parties and their advisors are also prohibited from photographing or otherwise copying the evidence.

Delays in the Investigation Process and Interactions with Law Enforcement

ACPHS may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, intervening school breaks, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The Title IX Coordinator will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. ACPHS will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the Title IX Coordinator will implement supportive measures as deemed appropriate.

19. INVESTIGATIVE REPORT

The Investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence, and will provide that Report to the parties at least ten (10) business days prior the hearing in an electronic format or hard copy for each party's review and written response. Written responses should be submitted to the Title IX Coordinator within three (3) business days of receiving the Report.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence. The investigator need not include information in the investigation report that the investigator determines not relevant or otherwise excludable.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report. Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator(s) not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

The Investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

20. GENERAL HEARING INFORMATION

Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a Hearing.

General Rules of Hearings

ACPHS will not issue a disciplinary sanction arising from an allegation of sexual harassment without holding a Hearing unless otherwise resolved through an informal resolution process.

The Title IX Coordinator will select an appropriate single Decision-maker who will also Chair the Hearing. The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate sit in throughout the Hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators may be witnesses in the Hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter. ACPHS reserves the right to appoint a Decision-maker who is either internal or external to the College.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the Hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The Hearing will convene at a time determined by the Chair or designee.

The Hearing cannot be scheduled less than ten (10) business days from the conclusion of the investigation (when the final investigation report is transmitted to the parties and the Decision-maker) unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will notify the Parties in writing of the date, time, and location of the

hearing, the name of the Decision-maker, and how to challenge participation by the Decision-maker for bias or a perceived conflict of interest. Bias or conflict of interest will be judged by an objective standard (whether a reasonable person would conclude the Decision-maker is biased).

The Parties and their Advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the Hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process.

Hearings are private. Observers or additional support personnel, other than the parties' advisors, are not allowed unless deemed necessary by the Title IX Coordinator for purposes such as accommodation of a disability. Cell phones and recording devices may not be used by the parties or their advisors in the hearing room(s).

The Hearing may be conducted with all parties physically present in the same geographic location, or, at ACPHS's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through remote video conferencing such as Zoom. This technology will enable participants simultaneously to see and hear each other. At its discretion, ACPHS/ Chair may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through audio recording; audiovisual recording; transcript. That recording or transcript will be made available to the parties for inspection and review.

Evidentiary Considerations in the Hearing

During the hearing, formal rules of evidence will not apply. Any evidence that the Decision-maker determines is relevant and credible may be considered. The Hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and is not shared with the Decision-maker until a finding of Responsibility has been made and the process has moved to the sanction stage.

The parties may each submit a written impact statement prior to the Hearing for the consideration of the Decision-maker at the sanction stage of the process when a determination of responsibility is reached. These impact statements should be delivered to the Title IX Coordinator.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

21. NOTICE OF HEARING

The Chair will send Notice of the Hearing to the parties. Once emailed the notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the Hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the Hearing.
- Information about the option for the Hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the Hearing.
- A list of all those who will attend the Hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the Hearing.
- Information on how the Hearing will be recorded and on access to the recording for the parties after the Hearing.
- A statement that if any party or witness does not appear at the scheduled Hearing, the Hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker. For compelling reasons, the Chair may reschedule the Hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the Hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the College will appoint one for purposes of conducting cross-examination at the hearing. Each party must have an Advisor present. There are no exceptions.
- An invitation to each party to submit to the Title IX Coordinator an impact statement Pre-Hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the Hearing, at least seven (7) business days prior to the hearing.
- A statement that parties cannot bring mobile phones/devices into the Hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by ACPHS and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

22. PARTICIPANTS IN THE LIVE HEARING

Hearings are not public, and the only individuals permitted to participate in the Hearing are as follows:

Complainant and Respondent (The Parties)

- The parties cannot waive the right to a Hearing.
- The institution may still proceed with the Hearing in the absence of a party and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a “statement” by that party.
 - For example, A verbal or written statement constituting part or all of the sexual harassment itself is not a “prior statement” that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint. See, OCR Blog (May 22, 2020), available at <https://www2.ed.gov/about/offices/list/ocr/blog/20200522.html>
- ACPHS will not threaten, coerce, intimidate, or discriminate against the party in an attempt to secure the party’s participation.
- If a party does not submit to cross-examination, the Decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a “statement” by that party.
- The Decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party’s absence from the Hearing or refusal to answer cross examination or other questions.

The Decision-maker / Chair

- The Hearing body will consist of a single Decision-maker, a Decision-maker who also serves as the Chair of the Hearing. The Chair will set the expectations of the Hearing at a Pre-Hearing meeting and will conduct the Hearing.
- No member of the Hearing body will also have served as the Title IX Coordinator, Title IX Investigator, or Advisor to any party in the case, nor may any member of the Hearing body serve on the appeals body in the case.
- No member of the Hearing body will have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the parties to the particular case.
- The Decision-maker will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Complainants, and any technology to be used at the Hearing.

- The parties will have an opportunity to raise any objections regarding a Decision-maker's actual or perceived conflicts of interest or bias at the commencement of the Hearing.
- The Title IX Coordinator will give the Decision-maker a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the Hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

Advisor of Choice (see APPENDIX D and E, ADVSOR ROLES AND RESPONSIBILITIES and RULES OF DECORUM FOR ADVISORS)

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The Advisor of Choice may accompany the parties to any meeting or Hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties are not permitted to conduct cross-examination; it must be conducted by the Advisor. As a result, if a party does not select an Advisor, ACPHS will select an Advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The Advisor is not prohibited from having a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the parties to the particular case.
- The Advisor is not prohibited from being a witness in the matter.
- If a party does not attend the Hearing, the party's Advisor may appear and conduct cross-examination on their behalf.
- If neither a party nor their Advisor appear at the Hearing, ACPHS will provide an Advisor to appear on behalf of the non-appearing party.
- Advisors shall be subject to the institution's Rules of Decorum, and may be removed upon violation of those Rules. See APPENDIX E Rules of Decorum for Advisors.

Hearing Facilitator

- A Title IX team member or designee who supports the logistics of the hearing.
- This individual does not participate in the Hearing nor has any role in decision-making,

Witnesses

- Any witness scheduled to participate in the Hearing must have been first interviewed by the Investigator(s) unless all parties and the Chair assent to the witness's participation in the Hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the Hearing, the Chair may delay the Hearing and instruct that the Investigation needs to be re-opened to consider that evidence.
- Witnesses cannot be compelled to participate in the Hearing and have the right not to participate in the hearing free from retaliation.
- If a witness does not submit to cross-examination, as described below, the Decision-maker cannot rely on any statements made by that witness in reaching a determination regarding

responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the Hearing.

23. PRE-HEARING MEETING

The Chair will convene a Pre-Hearing meeting(s) with the parties and their Advisors to invite them to submit the questions or topics they wish to ask or discuss at the Hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the Hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the Hearing or from asking for a reconsideration based on any new information or testimony offered at the Hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair, **only** with full agreement of the parties, may decide in advance of the Hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Investigation Report or during the Hearing.

The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the Hearing to assist in preparation for the Hearing. The Chair may consult with the Title IX Coordinator or ask to attend Pre-Hearing meetings.

During the ten (10) business day period prior to the Hearing, the parties have the opportunity for continued review and comment on the Investigative Report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

The Pre-Hearing meeting(s) will not be recorded. The Pre-Hearing meeting(s) may be in person, over video conferencing or over email at the discretion of the Chair.

24. HEARING PROCEDURES

At the Hearing, the Decision-maker/Chair has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual harassment and/or retaliation, even though those collateral allegations may not specifically fall within the Policy.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and will then be excused.

Hearings Process

- Hearings (but not deliberations) are recorded by ACPHS for purposes of review in the event of an Appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.
- The Decision-maker/Chair will open and establish rules and expectations for the hearing, will explain the procedures, and introduce participants.
- The Investigator(s) will then present a summary of the Investigative Report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire Hearing process, but not during deliberations.
- Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.
- The Parties will each be given the opportunity to provide opening statements.
- The Chair will ask questions of the Parties and Witnesses.
- Parties will be given the opportunity for cross-examination after Decision-maker conducts its initial round of questioning; During the Parties' cross-examination, the Decision-maker will have the authority to pause cross-examination at any time for the purposes of asking Decision-maker's own follow up questions; and any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Decision-maker. A Party's waiver of cross-examination does not eliminate the ability of the Decision-maker to use statements made by the Party.
- ACPHS may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the Title IX Coordinator or the Chair will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

Cross-Examination Procedures

- Each party's Advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination the Advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.
- All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider it (and state the question if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.
- The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed,

accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

- The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.
- Questioning must be conducted by the party's advisor in a respectful, non-intimidating and non-abusive manner, and never by a party personally.
- Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, other than questions and evidence about the Complainant's prior sexual behavior that (a) are offered to prove that someone other than the Respondent committed the alleged misconduct, or (b) concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the Hearing, either because they do not attend the Pre-Hearing Meeting or the Hearing, or they attend the Hearing but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the Hearing (including those contained in the Investigative Report) in the ultimate determination of responsibility. The Decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the Hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same Hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

Review of Hearing Recording and Transcript

The recording and transcript of the Hearing will be available for review by the parties within 2 business days unless there are any extenuating circumstances. The Decision-maker, the parties, their Advisors, and appropriate administrators of ACPHS will be permitted to listen to the

recording of the Hearing in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording.

25. DETERMINATION REGARDING RESPONSIBILITY

Standard of Proof

The Decision-maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. ACPHS uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of Formal Complaints covered under this Policy. This means that the Investigation and Hearing determines whether it is more likely than not that a violation of the Policy occurred.

General Considerations for Evaluating Testimony and Evidence

While the opportunity for cross-examination is required in all Title IX Hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

Decision-makers shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a Complainant, Respondent, or Witness, nor shall it base its judgments in stereotypes about how a Party or Witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the Party or Witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a Party or Witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Decision-makers will afford the highest weight relative to other testimony to first-hand testimony by Parties and Witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Grievance Policy, a Witness' testimony regarding third-party knowledge of the facts at issue will be allowed but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

ACPHS allows parties to call "expert witnesses" for direct and cross examination. ACPHS does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be crossed examined, the Decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

Where a Party or Witness' conduct or statements demonstrate that the Party or Witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Decision-maker may draw an adverse inference as to that party or witness' credibility.

26. COMPONENTS OF THE DETERMINATION REGARDING RESPONSIBILITY

The Chair will ensure that each of the Parties has an opportunity to review any impact statement submitted by the other Party(ies). The Decision-maker may – at their discretion – consider the statements, but they are not binding.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted Party impact statements in determining appropriate sanction(s).

The Decision-maker(s) will review the statements and any pertinent conduct history provided by the Title IX Coordinator and will determine the appropriate sanction(s) in consultation with the Title IX Coordinator and/or other administrator as appropriate.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two to four (2-4) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

Notice of Determination

The Title IX Coordinator will work with the Decision-maker/Chair to prepare a Notice of Determination. The Title IX Coordinator will then share the Notice simultaneously to all Parties through their ACPHS email account within three (3) business days of receiving the Decision-maker's deliberation statement, if there are no extenuating circumstances. Once emailed the Notice will be presumptively delivered.

The written Notice of Determination will include:

- The specific policy(ies) reported to have been violated (including the relevant policy section).
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- Findings of fact supporting the determination.

- Conclusions regarding which section of the relevant policy if any, the Respondent has or has not violated.
- For each allegation:
 - A statement of, and rationale for, a determination regarding responsibility or non-responsibility
 - A statement of, and rationale for, any disciplinary sanctions ACPHS imposes on the Respondent
 - A statement of, and rationale for, whether remedies designed to restore or preserve equal access to ACPHS's education program or activity will be provided by ACPHS to the Complainant (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent)
- ACPHS's procedures and the permitted reasons for the Complainant and Respondent to Appeal (described below in the APPEAL section).

27. SANCTIONS

ACPHS reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the sexual harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or retaliation on the Complainant and the community
- The impact on the Parties
- Any other information deemed relevant by the Decision-maker

For those crimes of violence that the College is required by federal law to include in its Annual Security Report, the transcripts of suspended or expelled students found responsible after a hearing and appeal, if any, will include the notation "Suspended after a finding of responsibility for a code of conduct violation" or "Expelled after a finding of responsibility for a code of conduct violation".

The sanctions will be implemented as soon as is feasible, either upon the outcome of any Appeal or the expiration of the window to Appeal without an Appeal being requested.

The sanctions described in this policy (See APPENDIX F POSSIBLE SANCTIONS FOR STUDENTS AND EMPLOYEES) are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

28. WITHDRAWAL OR RESSIGNATION WHILE CHARGES PENDING For Students

If a student has an allegation pending for violation of the Policy, ACPHS may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from ACPHS, the resolution process ends, as ACPHS no longer has disciplinary jurisdiction over the withdrawn student.

However, ACPHS will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation. The student who withdraws or leaves while the process is pending may not return to ACPHS. Such exclusion applies to all campuses of ACPHS. A hold will be placed on their ability to be readmitted. They may also be barred from ACPHS property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to ACPHS unless and until all sanctions have been satisfied.

If a Respondent who is a student withdraws from the College while charges are pending, and declines to complete the Grievance Process, the College shall make a notation on the transcript of such student that they "withdrew with conduct charges pending."

For Employees

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as ACPHS no longer has disciplinary jurisdiction over the resigned employee.

However, ACPHS will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with ACPHS, and the records retained by the Title IX Coordinator will reflect that status.

All ACPHS responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

29. APPEALS

Decisions on appeals are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a

compelling justification to do so. Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.

Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding, or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

Each Party may file a Request for Appeal for:

- (1) the dismissal of a Formal Complaint or any included allegations and/or
- (2) a determination regarding responsibility.

To appeal, a Party must submit their written appeal within five (5) business days of being notified of the dismissal decision or the determination decision, whichever is applicable, indicating the grounds for the appeal to the Title IX Coordinator.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- The sanction(s) imposed are substantially disproportionate to the severity of the violation.

If a Party appeals, ACPHS will as soon as practicable notify the other Party in writing of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals may be no longer than ten (10) pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced with one-inch margins. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the Party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an Appeal Decision-making body, whose members will be free of conflict of interest and bias, and will not serve as Investigator, Title IX Coordinator, or Decision-maker in the same matter. No appeal panelists will have been involved in the process previously, including a dismissal appeal that may have been heard earlier in the process.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair and the parties and their Advisors will be provided a Notice of Appeal Outcome of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker.

If an appeal is approved on the grounds of conflict of interest then the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker will be emailed, the Request for Appeal with the approved grounds and then be given 3 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Chair to all parties for review and comment.

The non-appealing Party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the Party who initially requested an Appeal, the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses in 3 business days, which will be circulated for review and comment by all parties.

Neither Party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeal Panel, and the Panel will render a decision in no more than 5 business days, barring exigent circumstances.

All decisions are by majority vote and apply the preponderance of the evidence.

A Notice of Appeal Outcome will be sent to all parties simultaneously through institutional email accounts including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which ACPHS is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the ACPHS is permitted to share under state or federal law. Once emailed the notice will be presumptively delivered.

In cases in which the appeal results in reinstatement to ACPHS or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

Finality

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the Notice of Appeal Outcome, if an appeal is filed consistent with the

procedures and timeline outlined in “Appeals” below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

30. SANCTIONS STATUS

During the Appeal

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

ACPHS may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

Failure to Comply

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Panel).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from ACPHS and may be noted on a student’s official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

31. LONG -TERM REMEDIES/OTHER ACTION

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations

- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the Recipient to the Respondent to ensure no effective denial of educational access.

The Recipient will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the Recipient's ability to provide these services.

32. RETALIATION

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the Grievance Process, supporting a Complainant or Respondent, assisting in providing information relevant to an Investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

ACPHS will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, FERPA regulations, or as required by law, or to carry out the purposes of this Title IX Grievance Policy, including the conduct of any investigation, hearing, or judicial proceeding.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. ACPHS will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes filing a false complaint in response to a Formal Complaint as well as any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

Counterclaims

ACPHS is obligated to ensure that the Grievance Process is not abused for retaliatory purposes. ACPHS permits the filing of counterclaims but uses the initial assessment to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

33. REVISION OF THIS POLICY AND PROCEDURES

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. ACPHS reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

APPENDIX A

NEW YORK STATE STUDENT BILL OF RIGHTS

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution."

APPENDIX B**ADDITIONAL RIGHTS REGARDING A REPORT OF SEXUAL MISCONDUCT**

Anyone reporting an incident of sexual assault, domestic or dating violence, or stalking has the right to:

- Notify campus security authorities, as identified in the annual Campus Safety Report, local law enforcement, or the New York State Police;
- Emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual and who can provide information, including:
 - Options to proceed, including the right to report to College officials, local law enforcement, and/or the New York State Police, or choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College;
 - Where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
 - That the criminal justice process utilizes different standards of proof and evidence than the College's misconduct procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
 - Whether the person they are reporting to is authorized to offer confidentiality or privacy; and
 - Any other reporting options.
- Disclose the incident confidentially to College representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for Complainants.
- Disclose the incident confidentially and obtain services from the state or local government.
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and consult with the Title IX Coordinator and other appropriate College personnel for information and assistance. Reports shall be investigated in accordance with College policy. A Complainant's identity shall remain private if that is what the Complainant wishes. However, privacy is not the same as confidentiality and private information can be shared as necessary to implement and fulfill the College's obligations under the law and its policies and procedures.
- If the accused is a College employee, disclose the incident to Human Resources or request a confidential or private employee assist in reporting to Human Resources.

- Receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court. Such assistance consists of facilitation in contacting appropriate local agencies who can provide direct assistance with court proceedings.
- Withdraw a complaint or involvement from the College process at any time, with the understanding that in appropriate cases, the College may nonetheless be required to continue investigating and appropriately resolving cases even if the reporting individual does not wish the case to continue.

Reporting Individuals will be protected from retaliation for reporting an incident.

APPENDIX C

RESOURCES FOR CONFIDENTIAL OR ANONYMOUS REPORTING AT ACPHS

(Albany): Counseling and Wellness, Student Center, (518) 694-7262 or (518) 694-7143
<http://www.acphs.edu/albany-campus/health-safety/counseling-services>

Outside ACPHS (Albany):

Equinox, 95 Central Ave., Albany, (518) 432-7865 [Domestic Violence Hotline],
<http://www.equinoxinc.org>

Albany County Crime Victims and Sexual Violence Center, 112 State St., Albany, (518) 447-7716 (hotline), www.albanycounty.com/cvsvc/

Outside ACPHS (Vermont):

Vermont Statewide Sexual Violence Hotline: 800-489-7273

Counseling, UVM Fanny Allen Campus, Colchester, 802-847-2827

Anonymous reporting to Confidential Hotlines provided by New York and Vermont State agencies and not-for-profit entities:

- New York State Domestic and Sexual Violence Hotline: 1-800-942-6906.
- Equinox Hotline: 518-432-7865.
- Unity House Hotline: 518-272-2370.
- Vermont Statewide Sexual Violence Hotline: 1-800-489-7273
- STEPS to End Domestic Violence (VT): 802-654-1996
- HOPE Works (VT): 802-863-1236
- The National Domestic Violence Hotline: 1-800-799-7233
- The National Sexual Assault Hotline: 1-800-656-4673
- Safe Horizon Hotlines: 800-621-4673 (domestic violence), 866-689-4357 (victims of other crimes, 1-212-227-3000 (rape & sexual assault victims)

APPENDIX D

ADVISOR ROLES AND RESPONSIBILITIES

Assistance in Securing an Advisor

ACPHS can provide assign an attorney/law student as Advisors in the resolution process but if a party would like to secure their own Advisor there are resources listed below.

ACPHS maintains a listing of local attorneys who may offer discounted or pro bono services here (*link*). Rob? do you have a list or website for other local attorneys who may be able to help students for hire.

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>]

Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The Advisor's role is limited to supporting and consulting with their advisee.

Advisors in Hearings/ACPHS-Appointed Advisor

Under U.S. Department of Education Title IX regulations a form of indirect questioning is required during the hearing, but must be conducted by the parties' Advisor. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, ACPHS will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

Except with respect to questioning, the Advisor's role is limited to consulting with their advisee, and the Advisor may not present evidence, address the Hearing Officer during the hearing, object to any aspect of the proceeding, or disrupt the hearing in any way, and any consultation with the advisee while the hearing is in progress must be done in a quiet nondisruptive manner or in writing. The Advisor may consult with the advisee verbally outside the hearing during breaks, when such breaks are granted. An Advisor's questioning of the other party and any witnesses must be conducted in a respectful, nonintimidating and non-abusive manner. If the Hearing Officer determines that an Advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the

party to obtain a replacement advisor; provided, however, that the College will assign an Advisor of the College's choosing, without charge, for the purpose of conducting questioning on behalf of the party.

Advisor Violations of ACPHS Policy

All Advisors are subject to the same ACPHS policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. [Advisors should not address Recipient officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination].

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

Sharing Information with the Advisor

ACPHS expects that the parties may wish to have ACPHS share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

ACPHS also provides a consent form that authorizes the ACPHS to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before ACPHS is able to share records with an Advisor. Rob-do you have a template for this kind of form?

If a party requests that all communication be made through their Advisor, ACPHS will not comply with that request. Rob-you ok with this?

Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly

authorized by ACPHS. ACPHS may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Recipient's privacy expectations.

Expectations of an Advisor's Availability

ACPHS generally expects an Advisor to adjust their schedule to allow them to attend ACPHS meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

ACPHS may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

APPENDIX E

RULES OF DECORUM FOR ADVISORS**Purpose of the Rules of Decorum**

Title IX hearings are not civil or criminal proceedings, and are not designed to mimic formal trial proceedings. They are primarily educational in nature, and the U.S. Department of Education, writing about Title IX in the Final Rule “purposefully designed these final regulations to allow recipients to retain flexibility to adopt rules of decorum that prohibit any party advisor or decision-maker from questioning witnesses in an abusive, intimidating, or disrespectful manner.” 85 Fed. Reg. 30026, 30319 (May 19, 2020). The Department has determined that institutions “are in a better position than the Department to craft rules of decorum best suited to their educational environment” and build a hearing process that will reassure the parties that the institution “is not throwing a party to the proverbial wolves.” *Id.*

To achieve this purpose, institutions may provide for reasonable rules of order and decorum, which may be enforced through the removal of an advisor who refuses to comply with the rules. *Id.*, at 30320. As the Department explains, the removal process “incentivizes a party to work with an advisor of choice in a manner that complies with a recipient’s rules that govern the conduct of a hearing, and incentivizes colleges and universities to appoint advisors who also will comply with such rules, so that hearings are conducted with respect for all participants.” *Id.* At base, these Rules of Decorum require that all parties, advisors of choice, and institutional staff treat others who are engaged in the process with respect.

The rules and standards apply equally to all Parties and their Advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of Complainant or Respondent.

Rules of Decorum

The following Rules of Decorum are to be observed in the hearing and applied equally to all Parties (meaning the complainant and respondent) and Advisors:

1. Questions must be conveyed in a neutral tone.
2. Parties and Advisors will refer to other Parties, Witnesses, Advisors, and institutional staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
3. No Party may act abusively or disrespectfully during the hearing toward any other Party or to Witnesses, Advisors, or Decision-maker.
4. While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
5. The Advisor may not yell, scream, badger, or physically “lean in” to a party or witness’s personal space. Advisors may not approach the other party or witnesses without obtaining permission from the Decision-maker/Chair.
6. The Advisor may not use profanity or make irrelevant *ad hominem* attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
7. The Advisor may not ask repetitive questions. This includes questions that have already been asked by the Decision-maker, the Advisor in cross-examination, or the party or

advisor in direct testimony. When the Decision-maker determines a question has been “asked and answered” or is otherwise not relevant, the advisor must move on.

8. Parties and Advisors may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

Warning and Removal Process

The Decision-maker shall have sole discretion to determine if the Rules of Decorum have been violated. The Decision-maker will notify the offending person of any violation of the Rules.

Upon a second or further violation of the Rules, the [decision-maker] shall have discretion to remove the offending person or allow them to continue participating in the hearing or other part of the process.

Where the Decision-maker removes a party’s advisor, the party may select a different Advisor of their choice, or accept an Advisor provided by the institution for the limited purpose of cross-examination at the hearing. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should an advisor be removed. A Party cannot serve as their own Advisor in this circumstance.

The Decision-maker shall document any decision to remove an Advisor in the written determination regarding responsibility.

For flagrant, multiple, or continual violations of this Rule, in one or more proceedings, Advisors may be prohibited from participating in future proceedings at the institution in the Advisor role on a temporary or permanent basis. Evidence of violation(s) of this agreement will be gathered by the Title IX Coordinator, or a designee of either and presented to the Vice President for Student Affairs for cases involving students/Vice President of Human Resources for cases involving employees. The Advisor accused may provide an explanation or alternative evidence in writing for consideration by the Vice President for Student Affairs for cases involving students/ Vice President of Human Resources for cases involving employees. Such evidence or explanation is due within fifteen (15) calendar days of receipt of a notice of a charge of re-disclosure or improper access to records. There shall be no right to a live hearing, oral testimony, or cross-examination. The Vice President for Student Affairs for cases involving students/Vice President of Human Resources for cases involving employees shall consider the evidence under a preponderance of the evidence standard and issue a finding in writing and, if the finding is Responsible, shall include a Sanction. The finding shall be issued in writing to all Parties and Advisors (if there is a current case pending) within thirty (30) days unless extended for good cause. There is no appeal of this finding. In the event that an Advisor is barred permanently or for a term from serving in the role as Advisor in the future, they may request a review of that bar from the Vice President for Student Affairs for cases involving students/Vice President of Human Resources for cases involving employees no earlier than three-hundred and sixty-five (365) days after the date of the findings letter.

Relevant Questions Asked in Violation of the Rules of Decorum

Where an advisor asks a relevant question in a manner that violates the Rules, such as yelling, screaming, badgering, or leaning-in to the witness or party's personal space, the question may not be deemed irrelevant by the decision-maker simply because of the manner it was delivered. Under that circumstance, the decision-maker will notify the advisor of the violation of the Rules, and, if the question is relevant, will allow the question to be re-asked in a respectful, non-abusive manner by the advisor (or a replacement advisor, should the advisor be removed for violation of the Rules). *See*, 85 Fed. Reg. 30331.

APPENDIX F

POSSIBLE SANCTIONS FOR STUDENTS AND EMPLOYEES

Student Sanctions – common sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any ACPHS policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either ACPHS-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at ACPHS, a notation of this suspension is put on their transcript.
- *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend ACPHS-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma*: ACPHS may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: ACPHS reserves the right to revoke a degree previously awarded from ACPHS for fraud, misrepresentation, and/or other violation of ACPHS policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including ACPHS registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, ACPHS may assign any other sanctions as deemed appropriate.

Employee Sanctions – responsive actions for an employee who has engaged in harassment and/or retaliation:

- *Warning – Verbal or Written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*

- *Transfer*
- *Reassignment*
- *Delay of tenure track progress*
- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions may assign any other responsive actions as deemed appropriate.