

Title/Subject: **SEXUAL MISCONDUCT POLICY**

Applies to: faculty staff students student employees visitors contractors

Effective Date of This Revision: March 16, 2015

Contact for More Information: Office of Civil Rights & Institutional Equity

Board Policy Administrative Policy Procedure Guideline

BACKGROUND:

Central Michigan University is committed to equal educational and employment opportunity and to the elimination of all forms of prohibited discrimination. Furthermore, CMU is committed to maintaining respectful, safe, and non-threatening educational, working, and living environments. As such, CMU is firmly devoted to maintaining its longstanding commitment to a campus environment free from Sexual Misconduct, including sexual harassment and sexual assault.

PURPOSE:

CMU strives to eradicate Sexual Misconduct through primary prevention and on-going awareness programs, education, training, clear policies, and serious consequences for acts of Sexual Misconduct. Sexual Misconduct will not be tolerated by CMU and is expressly prohibited.

This Policy provides information regarding how CMU will proceed once it becomes aware of allegations of Sexual Misconduct in order to prevent the recurrence of Sexual Misconduct, remedy its effects, promote safety, and deter individuals from similar future behavior.

DEFINITIONS:

Campus means CMU-owned or CMU-leased property, streets, and pathways contiguous to University property, or in the immediate vicinity of, CMU property. It also includes the property, facilities, and leased premises of organizations recognized by CMU, including CMU Housing and CMU-Recognized Housing.

Clery Act means the federal Jeanne Clery Disclosures of Campus Security Policy and Campus Crime Statistics Act.

CMU means Central Michigan University.

CMU Housing means housing owned or operated by CMU, such as residence halls and apartments.

CMUPD means the Central Michigan University Police Department.

CMU-Recognized Housing means housing not owned by CMU but where recognized student organizations dwell, including recognized fraternity and sorority chapter dwellings.

Authority: George E. Ross, President

History: 3-5-2015

Indexed as: Sexual Misconduct; Sexual Assault; Title IX; Sexual Harassment; Dating Violence; Discrimination; Domestic Violence; Stalking

Title/Subject: **Sexual Misconduct Policy**

Complainant means a person allegedly subjected to either Sexual Misconduct or Retaliation in violation of this Policy.

Complaint means a brief written statement of facts sufficient to put a reasonable person on notice of an alleged violation of this Policy.

Confidential Resources means those people or entities that are not required, either by law or by policy, to report an allegation of Sexual Misconduct to the Title IX Coordinator and that also provide confidential counseling and support services to people impacted by alleged acts of Sexual Misconduct, whether or not that person chooses to file a Complaint, file criminal charges, or otherwise participate in any processes referenced in this Policy or its Procedures.

Consent means a voluntary and affirmative mutually understandable communication of willingness to participate in particular sexual activity or behavior, expressed either by words or clear, unambiguous action. Additional information regarding consent can be found in section II of this Policy.

Dating Violence means violence by a person who has been in a romantic or intimate relationship with the Complainant. Whether there was such relationship will be gauged by the length, type, and frequency of interaction.

Determination means a written report prepared at the end of an investigation into an alleged violation of this Policy that includes a conclusion as to whether or not a violation of this Policy occurred and the rationale for the conclusion.

Domestic Violence or Intimate Partner Violence means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the applicable jurisdiction, or by any other person against a Complainant who is protected from that person's acts under the domestic or family violence laws of the applicable jurisdiction.

Impact Statement means a brief written statement prepared after the Determination by either a Complainant or a Respondent regarding how the violation of this Policy has affected that person and that is used to assist in determining appropriate sanctions, interventions, or accommodations.

Incapacitation means a person lacks the ability for self-care or to understand the nature of that person's conduct.

Interim Measures means those support services, accommodations, and interventions available to a Complainant, a Respondent, or University Community Members experiencing the effects of Sexual Misconduct that aim to mitigate the effects of the alleged misconduct and otherwise promote the safety of University Community Members.

Intimidation means to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

OCRIE means the Central Michigan University Office of Civil Rights and Institutional Equity.

Respondent means a person accused of violating this Policy.

Title/Subject: **Sexual Misconduct Policy**

Responsible Employee means a person:

- who has the duty to take action to redress Sexual Misconduct;
- who has the duty of reporting incidents of Sexual Misconduct or any other misconduct by students; or
- who a student reasonably believes has this authority or duty.

Retaliation means an adverse action taken against a person because that person:

- complained of Sexual Misconduct or Retaliation in good faith;
- cooperated in an investigation under this Policy or its Procedures; or
- participated in proceedings brought under this Policy or its Procedures.

Sanctioning Official means the person at CMU responsible for determining the appropriate sanctions for a specific violation of this Policy.

Sexual Assault means touching of a sexual nature without consent, including, but not limited to, any of the following acts:

- penetration, no matter how slight, of a person's vagina or anus with any body part or object without the Complainant's consent;
- penetration, no matter how slight, of a person's mouth by another person's sex organ without the Complainant's consent;
- intentional touching, without the Complainant's consent, of a person's intimate body parts, or any materials, such as clothing, covering the immediate area of a person's intimate body parts, including, but not limited to, that person's breasts, buttocks, groin, or mouth, for the purposes of sexual arousal or gratification, a sexual purpose, or in a sexual manner for revenge, to inflict humiliation, or out of anger;
- sexual intercourse between people where the sexual intercourse would constitute incest under the applicable jurisdiction's law; or
- sexual intercourse with a Complainant who is under the statutory age of consent.

Sexual Exploitation means conduct involving a person taking, or attempting to take, non-consensual or abusive sexual advantage of a Complainant when such conduct would not otherwise be defined as sexual harassment or sexual assault including, but not limited to, prostitution, sexual voyeurism, or taking pictures of a sexual nature without the Complainant's consent or exceeding the boundaries of that consent.

Title/Subject: **Sexual Misconduct Policy**

Sexual Harassment means nonconsensual sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature where:

- submission to such conduct is made either explicitly or implicitly a condition of a Complainant's employment or academic standing;
- submission to or rejection of such conduct is used as the basis for employment decisions or for academic evaluation, grades, or advancement; or
- such conduct has the purpose or effect of unreasonably interfering with a Complainant's work or academic performance, or creating an intimidating or hostile environment regarding education, employment, housing, or participation in CMU activities.

Sexual Misconduct means unwelcome conduct of a sexual nature committed without consent or by force, intimidation, coercion, or manipulation. Additional information regarding what conduct may be considered Sexual Misconduct can be found in section I.A.1.a of this Policy.

Stalking means a course of conduct directed at a specific Complainant that would cause a reasonable person to fear for that person's own or someone else's safety, or to suffer substantial emotional distress. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Student means a person who has enrolled at CMU, either full-time or part-time, pursuing undergraduate, graduate, or non-degree studies. People who have been enrolled at CMU, and who have not withdrawn, are students even when they are not enrolled for a particular term. Students also include people who have been admitted to CMU and who, before their first attendance, participate in activities intended only for prospective students (e.g., orientation, leadership activities, band, or other camps, athletic training and practices).

Third Party Complainant means a person or entity with information that a violation of this Policy may have occurred, that files a Complaint on behalf of Complainant, with the intent to stand in the place of the Complainant, and that is not otherwise a Complainant.

University Community Members means CMU students, faculty, staff, and certain third parties including, but not limited to, guests, contractors, consultants, and their employees.

University Members means CMU students, faculty, and staff.

POLICY:

I. Policy Coverage & Prohibited Conduct

A. This Policy prohibits acts of Sexual Misconduct and Retaliation both on and off Campus.

1. Prohibited Conduct

- a. **Sexual Misconduct**, as defined by this Policy, includes, but is not limited to, the following:
 - (A) Dating Violence;
 - (B) Domestic Violence and Intimate Partner Violence;
 - (C) Sexual Assault;
 - (D) Sexual Exploitation;
 - (E) Sexual Harassment; and
 - (F) Stalking.

Title/Subject: **Sexual Misconduct Policy**

- G. Consent cannot be obtained from a person who does not have the capacity to give consent under the laws of the applicable jurisdiction because of that person's physical or mental disability.
- H. Consent cannot be obtained from someone through intimidation, coercion, force, or threat of coercion or force.

III. Reporting

- A. Reports of alleged Sexual Misconduct or Retaliation may be made by a:
 - 1. Complainant;
 - 2. Third Party Complainant;
 - 3. Responsible Employee; or
 - 4. University Community Member.
- B. **Mandatory Reporting by Responsible Employees**
 - 1. **Responsible Employees**
 - a. All CMU employees including, but not limited to, the following are Responsible Employees:
 - (A) Senior Officers;
 - (B) Regular Faculty;
 - (C) Fixed Term Faculty;
 - (D) CMED Faculty;
 - (E) Graduate Assistants;
 - (F) Teaching Assistants;
 - (G) Postdoctoral Research Fellows;
 - (H) Athletic Coaches, Trainers, and Staff;
 - (I) Public Broadcasting Staff;
 - (J) Office Professionals;
 - (K) CMUPD employees;
 - (L) Service Maintenance Staff;
 - (M) Professional and Administrative Staff;
 - (N) Temporary Staff;
 - (O) Resident Hall Directors and all other residential hall staff; and
 - (P) Peer Advisors and other Residential College staff.
 - b. **Exceptions.** The following people are not Responsible Employees:
 - (A) People acting in the role of, or employed by, a Confidential Resource, only to the extent that they are serving in that role;
 - (B) Office professional staff serving in an administrative support role for a Confidential Resource, only to the extent they are serving in that role;
 - (C) Direct supervisors of a person acting as a Confidential Resource, only to the extent information shared regarding an alleged incident of Sexual Misconduct is shared for the purposes of providing support services concurrently or prospectively;
 - (D) People employed by CMU as journalists for a CMU sponsored or supported media outlet, only to the extent they are serving in a journalistic role; and
 - (E) Faculty members directly supervising students in a practicum course, only to the extent information shared regarding an alleged incident of Sexual Misconduct is shared for the purposes of providing mental or physical health services concurrently or prospectively.
 - 2. Responsible Employees are required to promptly report allegations of Sexual Misconduct to the Title IX Coordinator, or designee, whose contact information can be found in Supplemental Appendix A.
 - 3. Responsible Employees are required to share information regarding the alleged Sexual Misconduct known to them, including the names of the individuals involved in the alleged Sexual Misconduct, if known, with the Title IX Coordinator, or designee.

Title/Subject: **Sexual Misconduct Policy**

4. **Exception.** Responsible Employees are not required to report allegations of Sexual Misconduct to the Title IX Coordinator, or designee, when the Responsible Employee learns about the allegation during a public awareness or activism event, or other public forum at which University Community Members disclose experiences with Sexual Misconduct. Examples of these types of events or forums include, but are not limited to, Take Back the Night and protests.
- C. Responsible Employees should inform people with whom they are discussing allegations of Sexual Misconduct that:
 1. they are a Responsible Employee;
 2. they have a duty to report the alleged Sexual Misconduct to the Title IX Coordinator; and
 3. there are Confidential Resources available.
- D. **Reporting Procedures**
 1. Reports of alleged Sexual Misconduct or Retaliation should be reported to the Title IX Coordinator, or designee, whose contact information can be found in Supplemental Appendix A.
 2. In the event of an emergency, people should seek immediate assistance from law enforcement by dialing 911 or by contacting the appropriate local law enforcement agencies. A list of local law enforcement agencies where CMU has physical operations is contained in Supplemental Appendix A.
 3. **Affiliated Entities.** If a University Member makes a report of alleged Sexual Misconduct to an employee of an entity affiliated with CMU, the individual receiving the report should immediately report that concern to the Title IX Coordinator, or designee.
- IV. **Confidential Resources.**
 - A. Confidential Resources available to University Members on Campus include:
 1. CMU Counseling Center;
 2. CMU Counselors in Residence;
 3. CMU Sexual Aggression Peer Advocates (SAPA);
 4. health care providers, including medical professionals at CMU's University Health Services, providing related health care services; or
 5. members of the clergy providing related clerical or spiritual guidance.
 - B. Entities providing confidential counseling, advocacy, physical health, mental health, legal, or immigration resources may also be available off Campus. See Supplemental Appendices A and B.
 - C. Contact information for both confidential and non-confidential resources available on and off Campus can be found in Supplemental Appendices A and B.
 - D. CMU makes no warranties, either express or implied, regarding confidentiality or with respect to any other aspect of services offered by resources off Campus.
 - E. There is no expectation that a concern or allegation of Sexual Misconduct brought to a Confidential Resource will be reported to the Title IX Coordinator, or designee, or that any statistical information will be shared with CMUPD for purposes of inclusion in CMU's Annual Security Report under the Clery Act.
 - F. Confidential Resources may, under limited circumstances, share information with third parties including, but not limited to, law enforcement, Child Protective Services, or the Title IX Coordinator. Possible circumstances include:
 1. in order to comply with a generally applicable law including, but not limited to:
 - a. The Michigan Child Protection Law;
 - b. Section 946 of the Michigan Mental Health Code regarding threats of physical violence against third persons.
 - c. a valid subpoena, search warrant or other lawfully-issued court order; or
 - d. a valid order to respond to any inquiry or complaint from, or filed with, a governmental administrative agency.
 2. when an act of Sexual Misconduct occurs during the delivery of support services.

Title/Subject: **Sexual Misconduct Policy**

V. Timeliness

- A. To promote timely and effective review, allegations of Sexual Misconduct or Retaliation should be reported to the Title IX Coordinator, or designee, as soon as possible.
- B. The Title IX Coordinator, or designee, may initiate an investigation into an allegation of Sexual Misconduct made at any time. However, a delay in reporting an allegation may make it more difficult, or impossible, to gather relevant and reliable information.
- C. **Evidence Preservation**
 - 1. A Complainant who may wish to file criminal charges or obtain a personal protective order should:
 - a. consider having a forensic examination by a trained medical professional, such as a Sexual Assault Nurse Examiner (i.e. a “SANE”) for the purposes of preserving evidence; and
 - b. refrain from changing clothes, showering, or otherwise altering Complainant’s physical state after an incident until consulting with a medical or law enforcement professional regarding how to best preserve the evidence.
 - 2. Completion of a forensic examination by a trained medical professional is not a prerequisite to filing a Complaint.
 - 3. It is important to preserve evidence, including the results of a forensic examination by a trained medical professional, that may assist in proving that the alleged Sexual Misconduct or related criminal offense occurred or it may otherwise be helpful in obtaining a personal protection order.
 - 4. The time period for completion of a forensic examination by a trained medical professional varies by jurisdiction. A Complainant considering undergoing a forensic examination by a trained medical professional should consult with one of the appropriate resources listed in Supplemental Appendices A and B to determine the applicable time period.
 - 5. Entities providing access to a SANE can be found in Supplemental Appendix B.

VI. Title IX Coordinator

- A. The Director of OCRIE shall serve as CMU’s Title IX Coordinator.
- B. The Title IX Coordinator has responsibility for overseeing CMU’s response to all allegations of Sexual Misconduct, and identifying and addressing any patterns or systemic problems uncovered during the review of these allegations.
- C. The Title IX Coordinator has the responsibility for taking steps to ensure compliance with CMU’s policies regarding allegations of Sexual Misconduct.
- D. The Title IX Coordinator must receive all allegations of Sexual Misconduct that must be reported under this Policy.
- E. The contact information for the Title IX Coordinator can be found in Supplemental Appendix A.

VII. Privacy

- A. All University Community Members who participate in a process under this Policy or its Procedures are expected to keep private any information obtained in the process to the best of their ability.
- B. Under some circumstances, a University Community Member who fails to keep private, to the best of that member’s ability, information received during that member’s involvement in a process under this Policy or its Procedures could face sanctions if disclosure of that information constitutes:
 - 1. Sexual Harassment;
 - 2. Retaliation;
 - 3. a violation of a law, regulation, or policy regarding the disclosure of confidential employment or education records; or
 - 4. a violation of a generally applicable law, regulation, or CMU policy.
- C. Notwithstanding the foregoing, CMU will not require a University Community Member to abide by any nondisclosure agreement, in writing or otherwise, that would prevent the disclosure of information received during that member’s involvement in a process under this Policy or its Procedures.

Title/Subject: **Sexual Misconduct Policy**

- D. The private nature of information provided to the Title IX Coordinator and OCRIE will be accorded the utmost respect.
- E. The Title IX Coordinator or OCRIE may disclose information received under the following circumstances:
 - 1. to the extent provided by this Policy and its Procedures;
 - 2. to the extent necessary to:
 - a. eliminate the alleged Sexual Misconduct;
 - b. remedy the effects of the alleged Sexual Misconduct;
 - c. complete an investigation under this Policy; or
 - d. complete any sanctioning processes under this Policy; or
 - 3. to the extent required by law, including, but not limited to:
 - a. the Michigan Freedom of Information Act;
 - b. the Michigan Bullard-Plawecki Employee Right to Know Act;
 - c. the Family Educational Rights and Privacy Act (i.e. "FERPA");
 - d. a valid subpoena, search warrant or other lawfully-issued court order; or
 - e. a valid order to respond to any inquiry or complaint from, or filed with, a governmental administrative agency.
- F. CMU has federal reporting obligations under the Clery Act, including the obligation to provide statistics to the CMUPD of certain reported crimes. CMU will not include a Complainant's name or other identifying information in publicly available reports or timely warnings, as proscribed by the Clery Act.
- G. CMU may need to report an incident to local law enforcement under certain circumstances including, but not limited to, an incident where there is a clear and imminent danger, an incident involving a weapon, an incident involving a minor, or an incident warranting the undertaking of security or safety measures for the protection of the Complainant or of University Community Members.

VIII. Interim Measures

- A. When a University Community Member experiences an act of alleged Sexual Misconduct or Retaliation, CMU may institute Interim Measures regardless of whether a Complaint has been filed or the Complainant wishes to participate in this Policy or its Procedures' processes.
- B. The Title IX Coordinator, or designee, will coordinate Interim Measures with the appropriate CMU units.
- C. Privacy will be maintained as much as reasonably possible when Interim Measures are provided, taken, or otherwise made.
- D. The specific Interim Measures provided will be determined on a case-by-case basis.
- E. Interim Measures may be modified as necessary to remedy the effects of the alleged Sexual Misconduct or Retaliation and to promote safety.
- F. Possible Interim Measures available to a University Community Member may include, but are not limited to, one or more of the following:
 - 1. no contact orders;
 - 2. residential reassignments or removal;
 - 3. changes to employment assignments;
 - 4. changes to academic assignments;
 - 5. counseling;
 - 6. temporary suspension; or
 - 7. temporary delay of graduation or other academic progress.

IX. Education & Training

- A. Individuals involved in processing allegations of Sexual Misconduct and Retaliation shall undergo annual training on issues related to Sexual Misconduct and how to conduct investigatory and (when applicable) sanctioning processes that protects the safety of Complainants and the campus community, promotes accountability, and ensures due process.

Title/Subject: **Sexual Misconduct Policy**

- B. CMU shall offer primary prevention and awareness programs regarding topics related to Sexual Misconduct to new students, faculty, and staff as appropriate.
- C. CMU shall offer ongoing programs focusing on increasing awareness or understanding of topics related to Sexual Misconduct throughout the year.
- X. **Parties' Rights**
 - A. **Complainant's Rights.** During any process defined under this Policy or its Procedures, a Complainant has the right to:
 - 1. have a support person or advisor of the Complainant's choice accompany the Complainant during any stage of the process.
 - a. The support person or advisor may not be permitted to ask or answer questions, or otherwise speak or advocate on behalf of the Complainant.
 - b. The support person may be asked to leave any meeting if the support person becomes disruptive or otherwise interferes with the process.
 - 2. participate or decline to participate in the process. However, even if a Complainant declines to participate, CMU may, in some instances, continue to investigate the matter and issue a Determination based on available information in accordance with section XIV of this Policy.
 - 3. consult with any of the resources otherwise available at any time. A list of confidential and non-confidential resources can be found in Supplemental Appendices A and B.
 - 4. be treated with sensitivity, dignity, and respect.
 - 5. request Interim Measures.
 - 6. be kept up-to-date regarding the status of the Complaint.
 - 7. not have Complainant's irrelevant past sexual history discussed during this process.
 - B. **Respondent's Rights.** During any process defined under this Policy or its Procedures, a Respondent has the right to:
 - 1. have a support person or advisor of the Respondent's choice accompany the Respondent during any stage of the process.
 - a. The support person or advisor may not be permitted to ask or answer questions, or otherwise speak or advocate on behalf of the Respondent.
 - b. The support person may be asked to leave any meeting if the support person becomes disruptive or otherwise interferes with the process.
 - 2. participate or decline to participate in the process. However, even if a Respondent declines to participate, CMU may, in some instances, continue to investigate the matter and issue a Determination based on available information.
 - 3. consult with any available resources otherwise available at any time. A list of confidential and non-confidential resources can be found in Supplemental Appendices A and B.
 - 4. be treated with sensitivity, dignity, and respect.
 - 5. request Interim Measures.
 - 6. be kept up-to-date regarding the status of the Complaint against Respondent.
 - 7. not have the Respondent's irrelevant past sexual history discussed during the process.
 - C. **Third Party Complainants.** Any of the protections and rights extended to a Complainant in this Policy or its Procedures are equally applicable to a Third Party Complainant.
- XI. **Concurrent Criminal Complaints**
 - A. The Complainant has the right to pursue charges or file a concurrent complaint with local law enforcement or any other state or federal agencies.
 - B. OCRIE has a legal and moral obligation to investigate alleged violations of this Policy independent of any criminal investigations carried out by law enforcement, including CMUPD.
 - C. OCRIE will not necessarily wait for the conclusion of a criminal investigation or for criminal judicial proceeding to begin before it commences its own independent investigation into the alleged violations of this Policy.
 - D. OCRIE will request available evidence from law enforcement conducting any parallel criminal investigation.

Title/Subject: **Sexual Misconduct Policy**

- E. CMU will comply with reasonable requests by law enforcement for cooperation in their criminal investigation as follows:
 - 1. CMU will comply with lawful requests for information made by law enforcement.
 - 2. At the request of law enforcement, OCRIE may temporarily delay its investigation into an alleged violation of this Policy while law enforcement gathers evidence for a reasonable amount of time.
 - a. After a temporary and reasonable delay to allow for law enforcement to gather evidence, OCRIE will promptly resume its investigation under this Policy and its Procedures.
 - b. Interim measures may be instituted or continued while law enforcement gathers evidence, regardless of whether or not OCRIE has temporarily delayed its investigation into an alleged violation of this Policy.
- F. Contact information for local law enforcement in jurisdictions in which CMU has physical operations can be found in Supplemental Appendix A of this Policy.

XII. Time Frames

- A. CMU will resolve allegations of Sexual Misconduct and Retaliation in a reasonable, prompt, and equitable manner.
- B. CMU endeavors to issue a Determination and, if applicable, any sanctions within sixty (60) days of written notification to the Complainant that OCRIE will undertake an investigation of an alleged violation of this Policy. However, all time frames expressed in this Policy and its Procedures are meant to be guidelines and not rigid requirements.
- C. Factors that may affect the length of time necessary to completely resolve an allegation of Sexual Misconduct or Retaliation include, but are not limited to: the complexity of the allegations; the availability of the Complainant, the Respondent, and witnesses; the reluctance of the Complainant to file a Complaint; the effect of concurrent criminal investigations; intervening closures of CMU; the necessity to provide for rights under any applicable collective bargaining agreement; and any other unforeseeable circumstances.
- D. In the event a CMU unit determines it requires additional time beyond the time frames set forth in this Policy or its Procedures to fully and properly carry out its responsibilities under this Policy or its Procedures, it will provide simultaneous written notice to the Complainant, the Respondent, and the Title IX Coordinator, or designee, notifying them of the:
 - 1. anticipated length of the delay; and
 - 2. general nature of the circumstances causing the delay.

XIII. Preliminary Inquiry

- A. Upon actual or constructive notice of an alleged violation of this Policy, and prior to initiating an investigation, the Title IX Coordinator, or designee, will undertake a preliminary inquiry to determine if the alleged conduct, considered in a light most favorable to the Complainant, could constitute a violation of this Policy.
- B. If the alleged conduct, considered in the light most favorable to the Complainant, could constitute a violation of this Policy, the Title IX Coordinator, or designee, will:
 - 1. initiate an investigation under this Policy; and
 - 2. provide the Complainant with written notification regarding the decision to begin an investigation.
- C. If the alleged conduct, considered in the light most favorable to the Complainant, could not constitute a violation of this Policy, the Title IX Coordinator, or designee, will:
 - 1. may suggest another CMU unit with appropriate jurisdiction to address the alleged conduct; and
 - 2. will provide the Complainant written notification regarding the decision not to investigate the alleged violation of this Policy.

XIV. Consideration of Confidentiality

- A. The Title IX Coordinator, or designee, will respectfully consider all requests by a Complainant:
 - 1. that Complainant's identifying information not be shared;
 - 2. that the alleged Sexual Misconduct or Retaliation to not be investigated under this Policy; or

Title/Subject: **Sexual Misconduct Policy**

3. to otherwise not participate in an investigation under this Policy.
 - B. A request made pursuant to section XIV.A of this Policy severely limits CMU's ability to investigate the allegations and pursue sanctions against a Respondent, if warranted. Therefore, there may be circumstances in which the Title IX Coordinator, or designee, cannot honor a Complainant's request for confidentiality in light of CMU's obligation to provide a safe and non-discriminatory environment for all University Community Members.
 - C. The Title IX Coordinator, or designee, will consider the following factors in determining whether or not the Complainant's request pursuant to section XIV.A of this Policy can be honored:
 1. the risk that the Respondent will commit additional acts of Sexual Misconduct or other violence, such as:
 - a. whether there have been other allegations of Sexual Misconduct committed by same Respondent;
 - b. whether the Respondent has a history of arrests or records indicating a history of Sexual Misconduct or other violence;
 - c. whether the Respondent threatened further Sexual Misconduct or other violence against the Complainant or others; or
 - d. whether the alleged Sexual Misconduct was committed by multiple Respondents;
 2. whether the alleged Sexual Misconduct was perpetrated with a weapon;
 3. whether the Complainant was a minor at the time of the alleged Sexual Misconduct;
 4. whether the Title IX Coordinator, or designee, possesses other means to obtain relevant evidence of the Sexual Misconduct (e.g., security cameras or personnel, physical evidence); or
 5. whether the Complainant's allegation reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.
 - D. If the Title IX Coordinator, or designee, cannot honor a Complainant's request pursuant to section XIV.A of this Policy, the Title IX Coordinator, or designee, will inform Complainant in writing prior to initiating an investigation:
 1. that the Title IX Coordinator, or designee, cannot honor the Complainant's request;
 2. about the steps that will be taken to maintain the Complainant's privacy; and
 3. about the additional resources and accommodations available to the Complainant, if any.
 - E. A request pursuant to section XIV.A of this Policy does not limit a Complainant's ability to access confidential resources or otherwise receive accommodations to mitigate the effects of the alleged Sexual Misconduct.
- XV. **Standard of Proof.** All allegations of Sexual Misconduct and Retaliation must be proven by a preponderance of the evidence, which means that, in the investigator's judgment, it is more likely than not that a violation of this Policy occurred.
- XVI. **Withdrawals, Resignations, & Graduation.** If a Respondent ceases enrollment or employment with CMU before final conclusion of all processes under this Policy or its Procedures, CMU will continue those processes, to the extent it is able, whether or not the Respondent elects to continued participation.
- XVII. **Conflicts of Interest**
- A. If the Complainant or the Respondent believes that the investigator assigned to the Complaint has a conflict of interest or is impermissibly biased in the matter, the Complainant or the Respondent may request an alternative investigator.
 1. This request must be made in writing to the Title IX Coordinator within seven (7) days of when the Complainant or Respondent knew or should have known of the alleged conflict of interest or impermissible bias.
 2. The written request must contain sufficient information and details to establish that the investigator has a conflict of interest or impermissible bias.

Title/Subject: **Sexual Misconduct Policy**

- B. An investigator may seek to recuse oneself from an investigation if the investigator believes there may be a conflict of interest that prevents the investigator from being unbiased in carrying out the investigation.
 - 1. A request to recuse oneself must be made in writing to the Title IX Coordinator and state the basis for the request.
 - 2. The Title IX Coordinator will grant or deny this request in writing.
- C. It is within the Title IX Coordinator's discretion to:
 - 1. appoint an alternative investigator;
 - 2. direct the investigator to fairly address the conflict of interest or impermissible bias during the investigation; or
 - 3. reject the request on the grounds that no conflict of interest or impermissible bias was demonstrated.
- D. In the event that the Title IX Coordinator has a conflict of interest or is impermissibly biased, the General Counsel, or designee, which may include a retained, neutral, outside third-party, will serve in the role of the Title IX Coordinator with respect to that specific allegation.

PROCEDURE:

I. Investigations

A. Inclusion of Other CMU Units

- 1. OCRIE may invite other CMU units or offices to participate in its investigation if OCRIE determines that its investigation may lead to violations of other CMU policies outside of its jurisdiction.
- 2. OCRIE may also invite other CMU units or offices to participate in its investigation if required by the terms of an applicable collective bargaining agreement.
- 3. The following CMU units are often included in investigations under this Policy:
 - a. Office of Faculty Personnel Services if the Respondent is faculty member;
 - b. Office of Human Resources – Employee Relations if the Respondent is a staff member; and
 - c. Office of Student Conduct if the Respondent is a student.

B. Investigatory Powers. In order to carry out its obligations under this Policy and its Procedures, OCRIE may interview people, inspect documentary evidence, and review other evidence that may otherwise be available to it.

- 1. Unless either party indicates an unwillingness to participate in the investigatory process, OCRIE will separately interview the Complainant and the Respondent.
 - a. It is within OCRIE's discretion to interview a Complainant, Respondent, or any witness, multiple times.
 - b. Within five (5) calendar days of being interviewed by OCRIE, the Complainant or the Respondent may supplement their oral testimony with a written statement provided to the OCRIE investigator.
- 2. A Complainant, Respondent, and any witnesses interviewed by OCRIE may provide OCRIE with evidence, documentary or otherwise, that the person deems relevant to the investigation.
- 3. OCRIE will not return any evidence it receives or collects.
- 4. OCRIE is permitted to independently, and on its own volition, retrieve any evidence available to it.
- 5. It is within OCRIE's discretion to determine which evidence it will consider or witnesses to interview.
- 6. OCRIE, at its discretion, may consider character witness evidence only under exceptional circumstances.

Title/Subject: **Sexual Misconduct Policy**

C. Investigatory Process

1. **Initiating an Investigation.** Upon the direction of the Title IX Coordinator, or designee, OCRIE will undertake a prompt and equitable investigation of an alleged violation of this Policy.
2. **Complaint**
 - a. OCRIE will request that the Complainant prepare a Complaint, if not already prepared.
 - b. A Third Party Complainant may prepare or file a Complaint with OCRIE on behalf of a Complainant.
 - c. If OCRIE is investigating an allegation of a violation of this Policy without a Complainant's active participation, OCRIE will draft the Complaint.
 - d. Under certain circumstances, OCRIE may draft a Complaint on behalf of a Complainant and have the Complainant endorse it.
3. **Notice to Respondent**
 - a. Within twenty-one (21) days of receiving a Complaint endorsed by Complainant and the determination by the Title IX Coordinator, or designee, that OCRIE will undertake an investigation of an alleged violation of this Policy, OCRIE will provide, or cause to be provided, written notice to Respondent:
 - (A) of the general nature of the allegations;
 - (B) a request to meet with OCRIE; and
 - (C) notice that if Respondent does not elect to participate in the investigation, OCRIE will carry out its investigation based on available information and that the Respondent may still be subject to sanction pursuant to this Policy and its Procedures.
 - b. Any notices to faculty or staff will also comport with any requirements of the applicable collective bargaining agreement, if any, regarding notice of investigations that may lead to discipline.
 - c. A copy of this notice may also be sent to the following:
 - (A) if the Respondent is faculty or staff, a copy of the written notice may also be provided to:
 - (1) the Vice President for the Respondent's division or the Provost;
 - (2) the administrative head of the appropriate personnel office; and
 - (3) other appropriate people;
 - (B) if the Respondent is a senior officer or an employee in the President's Division, a copy of the written notice may be sent to the President;
 - (C) if the Respondent is the President, a copy of the written notice may be sent to the Chair of the Board of Trustees and the General Counsel;
 - (D) if the Respondent is a student, a copy of the written notice may be sent to:
 - (1) the Office of Student Conduct; and
 - (2) other appropriate people; and
 - (E) if the Respondent is a Contractor, Guest, Volunteer, etc., a copy of the written notice may be sent to other appropriate people.

D. Determination

1. Each Determination will contain, at a minimum:
 - a. an overview of the investigation undertaken;
 - b. a summary of all evidence and testimony reviewed and considered;
 - c. findings of fact based on the available evidence and testimony;
 - d. a conclusion as to whether or not a violation of this Policy occurred, or if insufficient evidence exists to make such a conclusion;
 - e. the rationale and analysis in support of the findings and conclusion;
 - f. recommended sanctions to eliminate the Sexual Misconduct, prevent its recurrence, and remedy its effects; and

Title/Subject: **Sexual Misconduct Policy**

2. **Possible Sanctions**
 - a. **Reprimand:** A written reprimand, including the possibility of more severe disciplinary sanctions in the event of the finding of a subsequent violation of CMU regulations within a stated period of time.
 - b. **Removal from CMU Housing:** Cancellation of a housing agreement or lease and required vacation of CMU Housing.
 - c. **Campus Restrictions:** Limitations on the times and/or places where a Respondent may be present on-Campus.
 - d. **Educational Programs:** Participation in educational programs, such as training, workshops, seminars, or other educational activities.
 - e. **Revocation of CMU Privileges:** Revocation of CMU privileges, such as participation in extra-curricular activities, for a definite or indefinite period of time.
 - f. **Disciplinary Probation:** Subjection to a period of critical examination and evaluation of behavior.
 - g. **No Contact Orders:** Prohibition on all forms of contact with certain people.
 - h. **Suspension:** Exclusion from classes and other privileges or activities as set forth for a definite period of time.
 - i. **Dismissal:** Permanent termination of student status.
 3. **Minimum Sanction.** The Sanctioning Official must, at a minimum, impose the sanction of a suspension if a Respondent is found to have violated this Policy by committing an act of Sexual Assault, as defined by this Policy.
 4. **Impact Statements**
 - a. Within five (5) days of being given notice of the Determination, the Complainant or Respondent may submit an Impact Statement to the Title IX Coordinator, or designee.
 - (A) The Title IX Coordinator, or designee, will provide the Impact Statements, if any, to the Sanctioning Official.
 - (B) In the event that neither the Respondent nor the Complainant submits an Impact Statement, the Title IX Coordinator, or designee, will inform the Sanctioning Official that no Impact Statement was submitted.
 - b. The Sanctioning Official shall determine the appropriate sanction after receiving the Impact Statement or receiving notice from the Title IX Coordinator, or designee, that no Impact Statement was submitted.
 5. **Time Frame.** Generally, the Sanctioning Official will determine a sanction within ten (10) days of being given notice that the Determination is available for distribution.
- C. If the Respondent is **Faculty or Staff**
1. **Possible Sanctions**
 - a. **Written Reprimand:** Written documentation of a failure to abide by CMU policy or procedures maintained in the employee's personnel file.
 - b. **Educational Programs:** Participation in educational programs, such as training, workshops, seminars, or other educational activities.
 - c. **Revocation of CMU Privileges:** Revocation of CMU privileges, such as participation in extra-curricular or volunteer activities, for a definite or indefinite period of time.
 - d. **Campus Restrictions:** Limitations on the times and/or places where a Respondent may be present on campus.
 - e. **No Contact Orders:** Prohibition on all forms of contact with certain people.
 - f. **Suspension:** Exclusion from work, with or without pay, and other related activities as set forth for a definite period of time.
 - g. **Termination:** Permanent separation of the employment relationship.
 2. **Time Frame.** Generally, the Sanctioning Official will determine a sanction within ten (10) days of being given the Determination unless the terms of the applicable collective bargaining agreement require otherwise.

Title/Subject: **Sexual Misconduct Policy**

- D. If the Respondent is a **Contractor, Guest, Volunteer, etc.**
 - 1. **Possible Sanctions**
 - a. **Trespass Warning:** Notice that future visits to campus may result in a ticket for trespassing.
 - b. **Campus Restrictions:** Limitations on the times and/or places where a Respondent may be present on campus.
 - c. **No Contact Orders:** Prohibition on all forms of contact with certain people while on campus.
 - d. **Relationship Termination:** Termination of the relationship (e.g. contractual, volunteer, sponsorship, athletic booster, donor, etc.) between the Respondent and CMU.
 - 2. **Time Frame.** Generally, the Sanctioning Official will determine a sanction within ten (10) days of being given the Determination unless the terms of an applicable contract requires otherwise.
- E. **Pendency During Appeals.** No final disciplinary action based on the findings and conclusions of the Determination shall be taken against the Respondent during any appeal process, although Interim Measures may be instituted or continued until all appeals are exhausted.
- F. **Additional Remedies, Interventions, and Accommodations**
 - 1. Regardless of the nature of the Respondent's relationship with CMU, or any sanctions imposed pursuant to these Procedures, additional remedies, interventions, and accommodations may be available to a Complainant, including a Third Party Complainant, or a University Community Member, either individually or collectively.
 - 2. The Title IX Coordinator, or designee, will coordinate additional remedies, interventions, and accommodations, if any.
 - 3. Additional remedies, interventions, and accommodations, if any, will be determined on a case-by-case basis.
 - 4. Possible additional remedies, interventions, and accommodations include, but are not limited to, the following:
 - a. residential reassignments;
 - b. changes to employment assignments;
 - c. changes to academic assignments;
 - d. physical or mental health related accommodations;
 - e. counseling;
 - f. referral to a CMU entity, other than OCRIE, for additional consideration;
 - g. evaluation of policies or procedures; and
 - h. educational programs or forums.

III. **Appeal Procedures**

- A. Appeal of the **Determination**
 - 1. **All** Complainants, including a Third Party Complainant, and Respondents may appeal a Determination subject to the provisions of this Policy and its Procedures.
 - 2. **Grounds for Appeal.** A Complainant or a Respondent may only appeal a Determination on the grounds that:
 - a. there has been the discovery of new information or evidence that:
 - (A) would have a material bearing on the final conclusion made by OCRIE; and
 - (B) the person appealing establishes by a preponderance of evidence in the written appeal that such information or evidence was reasonably unavailable at the time the Determination was issued by OCRIE; or
 - b. the OCRIE investigator was personally biased in the investigation, and
 - (A) the Determination was improperly influenced based on such personal bias; and
 - (B) the person appealing establishes by a preponderance of evidence in the written appeal that:
 - (1) the issue of personal bias was raised during the course of the investigation (if the person knew or should have known of the alleged personal bias), and

Title/Subject: **Sexual Misconduct Policy**

- (2) the OCRIE investigator failed to fairly address the alleged personal bias in (or before) Determination or that the findings of fact, recommendations, or conclusions demonstrate an improper bias.
3. **Timeliness.** An appeal of a Determination must be made in writing to the President, care of the Executive Assistant to the President, and delivered to the office of the President in 106 Warriner Hall within seven (7) days of receipt of the notice of the availability of the Determination that is being appealed.
4. **Initial Review.** Within fourteen (14) days of receiving a written appeal, the President, or designee, shall make an initial determination regarding whether or not the content of the written appeal, if taken as true, establishes by a preponderance of the evidence sufficient grounds for an appeal pursuant to section III.A.2 of these Procedures.
 - a. If there are insufficient grounds for an appeal, the President, or designee, shall provide the Complainant, the Respondent, and the Title IX Coordinator with concurrent written notice that the appeal has been denied and dismissed.
 - b. If there are sufficient grounds for an appeal, the President, or designee, shall provide the Complainant, the Respondent, and the Title IX Coordinator, or designee, with concurrent written notice that an appeal committee will be appointed.
 - c. There is no appeal from this decision.
5. **Appeal Committee.**
 - a. The appeal shall be conducted by a committee:
 - (A) composed of three members; and
 - (B) appointed by the President with one member appointed as chair.
 - b. Within ten (10) days of a decision that there are sufficient grounds for an appeal, the Executive Assistant to the President shall provide simultaneous notice of the names of the appeal committee members to the Complainant, the Respondent, and Title IX Coordinator, or designee.
 - c. Within five (5) days after receipt of the names of the members of the appeal committee, both the Complainant and the Respondent may submit written objections to the President, or designee, to the appointment of any of the appeal committee member(s) on the basis of that member's inability to act impartially.
 - (A) The written objection must describe specifically why the member cannot act impartially.
 - (B) If the President, or designee, determines that a committee member cannot act impartially, then an alternate appointment shall be made.
 - (C) Following this review, the President's decision regarding committee appointments is final.
6. **Written Explanations & Responses**
 - a. The appeal committee will request a written explanation of the following from the appealing party:
 - (A) the reason for the appeal under section III.A.2.a or III.A.2.b of these Procedures; and
 - (B) all information or evidence that supports the basis for the appeal.
 - b. The appealing party shall submit the written explanation within fourteen (14) days of the appeal committee's request.
 - c. After receiving the written explanation, the appeal committee shall provide a copy of the written explanation to OCRIE within seven (7) days.
 - d. OCRIE may provide the appeal committee a written response within fourteen (14) days after receipt of the written explanation from the appeal committee.

Title/Subject: **Sexual Misconduct Policy**

7. **Appeal Decision**
- a. If the appeal is based upon the discovery of new information or evidence that would have a material bearing on the final conclusion made by OCRIE, OCRIE may determine that it will re-consider the Determination. In such a case:
 - (A) OCRIE shall notify the appeal committee, the Complainant, and the Respondent of its decision simultaneously and in writing.
 - (B) OCRIE shall re-open and proceed with its investigation in light of the new evidence, which may include additional interviews of the Complainant, Respondent, or witnesses.
 - (C) The appeal will be placed on hold pending the re-investigation and a new Determination.
 - b. The appeal committee's deliberations will be closed to all people other than the appeal committee members.
 - c. The appeal committee will determine if the reasons for the appeal are supported by a preponderance of the evidence.
 - d. A decision will be made by a majority vote; no abstentions permitted, and shall be placed in writing and delivered to the President.
 - e. The decision of the appeal committee shall be one of the following:
 - (A) a recommendation to have OCRIE consider new information or evidence and a description of the new information or evidence to be considered;
 - (B) a recommendation to have the investigation reviewed by a third party outside OCRIE because of personal bias demonstrated by OCRIE (with the information or evidence supporting the basis for such recommendation);
 - (C) a recommendation to affirm the Determination.
 - f. The President, or designee, shall simultaneously send the decision of the appeal committee to the Complainant, the Respondent, OCRIE, the Title IX Coordinator, or designee, and all parties deemed necessary by the President.
 - g. If the President concurs with the appeal committee's recommendations, the President may do one (or more) of the following:
 - (A) accept the recommendation to have OCRIE consider the new information or evidence and re-investigate the complaint, as appropriate;
 - (B) accept the recommendation to have the investigation reviewed by a third party outside OCRIE because of personal bias demonstrated by OCRIE; or
 - (C) affirm the Determination.
 - h. The President, or designee, shall simultaneously send notice of the President's decision to the Complainant, the Respondent, OCRIE, the Title IX Coordinator, or designee, and all parties deemed necessary by the President.
- B. **Appeal of the Sanction**
- 1. If the Respondent is a **Student**
 - a. **Grounds for Appeal.**
 - (A) The grounds for an appeal of a sanction are only that the terms or conditions of the sanction are fundamentally inappropriate or disproportionate based on the Determination.
 - (B) Under no circumstances may a sanction be reduced below any minimums established by this Policy or its Procedures.
 - (C) An appeal, if any, from the Sanctioning Official's decision regarding the appropriate sanctions is limited only to the terms and conditions of any sanction and may not be used as a collateral attack on the findings and conclusions contained within the Determination.
 - b. **Timeliness.** An appeal of the sanction must be made in writing to the Associate Vice President for Student Affairs within seven (7) days of notice of the sanction.

Title/Subject: **Sexual Misconduct Policy**

- c. **Appeal Board**
 - (A) The appeal shall be conducted by an appeals board:
 - (1) composed of three faculty or staff members; and
 - (2) appointed by the Associate Vice President for Student Affairs, or designee, with one member appointed as chair.
 - (B) Within ten (10) days of receiving a written appeal, the Associate Vice President for Student Affairs, or designee, shall provide notice of the names of the appeal board members to the Complainant and the Respondent.
 - (C) Within five (5) days after receipt of the names of the members of the appeal committee, both the Complainant and the Respondent may submit written objections to the Associate Vice President for Student Affairs, or designee, to the appointment of any of the appeals board member(s) on the basis of that member's inability to act impartially.
 - (1) The written objection must describe specifically why the member cannot act impartially.
 - (2) If the Associate Vice President for Student Affairs, or designee, determines that an appeals board member cannot act impartially, then an alternate appointment shall be made.
 - (3) Following this review, the decision of the Associate Vice President for Student Affairs, or designee, regarding appeals board appointments is final.
- d. **Written Explanations & Responses**
 - (A) The appeals board will request a written explanation from:
 - (1) the **party appealing** as to why the terms and conditions of the sanction imposed are fundamentally inappropriate or disproportionate based upon the Determination and any evidence that supports this position; and
 - (2) the **party not appealing** as to why the terms and conditions of the sanction imposed are not fundamentally inappropriate or disproportionate based upon the Determination and any evidence that supports this position.
 - (B) The parties shall submit a written explanation pursuant to section III.B.1.d(A) of these Procedures within fourteen (14) days of the appeals board's request.
 - (C) After receiving the written explanations, the appeals board shall share the written explanations with the Sanctioning Official within seven (7) days.
 - (D) The Sanctioning Official may provide the appeals board a written response within fourteen (14) days after receipt of the written explanations from the appeals board.
- e. **Appeal Decision**
 - (A) The appeals board's deliberations will be closed to all people other than the appeals board members.
 - (B) The appeals board will determine if the reasons for the appeal are supported by a preponderance of the evidence.
 - (C) The appeals board may consider the following documents in order to resolve an appeal:
 - (1) the Determination;
 - (2) any timely submitted Impact Statements;
 - (3) the notice of the sanction sent to the parties;
 - (4) any written explanations submitted pursuant to section III.B.1.d(A) or III.B.1.d(D) of these Procedures.
 - (D) A decision will be made by a majority vote; no abstentions permitted, and shall be placed in writing and delivered to the Associate Vice President for Student Affairs within twenty-one (21) days from the Sanctioning Official's submission of a written response pursuant to section III.B.1.d(D) of these Procedures.

Title/Subject: **Sexual Misconduct Policy**

- (E) The decision of the appeals board shall be one of the following:
 - (1) an affirmation of the sanction; or
 - (2) a rejection of the sanction and the imposition of an alternative sanction that is actually appropriate given the circumstances and nature of the violation of this Policy.
 - (F) The appeals board cannot reduce a sanction below any minimum sanction established by this Policy or its Procedures.
 - (G) The Associate Vice President for Student Affairs, or designee, shall simultaneously send the decision of the appeals board to the Complainant, the Respondent, the Sanctioning Official, OCRIE, and the Title IX Coordinator, or designee.
- f. **Appeal to the Vice President for Enrollment and Student Services**
- (A) A Complaint, Respondent, the Title IX Coordinator, or designee, or the Sanctioning Official may make a written application to the Vice President for Enrollment and Student Services to review such a decision made by the appeals board.
 - (B) The application must be received in the Office of the Vice President for Enrollment and Student Services within seven (7) days after the date of the appeals board decision.
 - (C) Failure to make an application for review within the time limit ends the right to make application for review.
 - (D) The application for review must contain the following information:
 - (1) Name of the Respondent in the proceeding in which the appeals board has rendered a decision.
 - (2) Name, address, and telephone number of the person making application for review.
 - (3) A copy of the appeals board decision involved.
 - (4) A statement as to what portion of the appeals board decision the applicant wishes reviewed, and the reason why the person making application for review considers the decision to be capricious, or the procedures followed to be fundamentally unfair.
 - (5) A statement of the relief requested from the Vice President of Enrollment and Student Services by the person making application for review.
 - (E) If the Vice President for Enrollment and Student Services elects to review a decision of the appeals board, either in part or entirely, the Vice President for Enrollment and Student Services will act in a prompt and equitable manner, allowing for equitable opportunities for both a Complainant and Respondent to address the Vice President for Enrollment and Student Services.
 - (F) The Vice President for Enrollment and Student Services will provide simultaneous written notice of the results of any review undertaken to the Complainant, Respondent, OCRIE, the Sanctioning Official, the Title IX Coordinator, or designee, and all parties deemed necessary by the Vice President for Enrollment and Student Services.
2. If the Respondent is **Faculty** or **Staff**
- a. **Grounds for Appeal**
 - (A) The grounds for an appeal of a sanction are determined by the terms of the collective bargaining agreement or employee handbook covering the terms and conditions of the Respondent's employment.

Title/Subject: **Sexual Misconduct Policy**

- (B) An appeal, if any, from the Sanctioning Official's decision regarding the appropriate sanctions and interventions is limited only to the terms and conditions of any sanctions or interventions and may not be used as a collateral attack of the findings and conclusions contained within the Determination.
 - b. **Appeal Procedures**
 - (A) The procedures by which a Complainant or a Respondent may appeal a sanction are determined by the terms of the collective bargaining agreement, employee handbook or contract covering the terms and conditions of the Respondent's employment.
 - (B) The appeal procedures, if any, will be simultaneously communicated in writing to the Complainant, the Respondent, OCRIE, and the Title IX Coordinator, or designee.
 - (C) All appeals must be carried out in a prompt and equitable manner, including equal opportunity for both the Complainant and the Respondent to challenge a sanction.
 - (D) All appeals must be carried out in a manner consistent with, and not in contravention of, this Policy and its Procedures.
 - c. **Outcome.** The outcome of any appeal will be simultaneously communicated in writing to the Complainant, the Respondent, OCRIE, and the Title IX Coordinator, or designee.
- IV. **Final Notifications.** Upon exhaustion of all appeals, or if no appeals are filed in a timely manner, and upon notification to the Title IX Coordinator, or designee, of the status of the appeals, the Title IX Coordinator, or designee, shall provide simultaneous written notice to the Complainant and Respondent that the Determination and sanction, if any, are final.