

## **SEXUAL MISCONDUCT IN EDUCATION**

### **SCOPE**

This policy and procedure applies to all individuals participating in the educational programs and activities of Charleston Area Medical Center, Inc. and its related entities and affiliates (collectively referred to as “CAMC”), including, without limitation, employees, Professional Staff, medical and other residents, researchers, fellow, interns, students enrolled in CAMC programs, and third parties (such as patients, vendors, and visitors).

This policy and procedure applies to conduct on CAMC property and to locations, events, or circumstances where CAMC exercises substantial control over the person alleged to have engaged in the conduct and the context in which it occurred.

CAMC recognizes that certain participants in its educational programs and activities are affiliated with schools, colleges and universities that also have sexual misconduct policies. When another institution’s policy may be implicated by conduct prohibited under this policy, CAMC will cooperate with that institution to ensure fairness to all parties.

### **POLICY**

In accordance with Title IX of the Education Amendments of 1972, as amended, the Violence Against Women Reauthorization Act of 2013 (VAWA) and other applicable statutes and regulations, CAMC prohibits all forms of discrimination on the basis of sex, gender, sexual orientation, gender expression and gender identity in its educational programs and activities. Prohibited conduct under this policy includes sex discrimination, sexual harassment, sexual violence and retaliation, as those terms are defined herein.

#### **Title IX Coordinator**

CAMC has a designated Title IX Coordinator with the responsibility to oversee CAMC’s response to reports of discrimination, sexual harassment, sexual violence and retaliation and to identify and address any related patterns or systemic problems. CAMC’s Title IX Coordinator may be reached at the contact information below.

Questions or concerns regarding Title IX, sex discrimination, sexual harassment, sexual violence or retaliation in CAMC’s educational programs and activities may be directed to the Title IX Coordinator.

CAMC’s Title IX Coordinator has the authority to:

- a. Accept all reports of sex discrimination, sexual harassment, sexual violence and retaliation in CAMC educational programs and activities;

- b. Ensure that CAMC's response to all such reports is appropriate to stop the conduct, prevent its recurrence, and address its effects;
- c. Provide for a prompt, adequate and impartial investigation into reports when required;
- d. Coordinate CAMC's Title IX education and training for all participants in its educational programs and activities;
- e. Keep accurate, confidential records of all reports for seven years; and
- f. Monitor institutional compliance in matters related to Title IX.

When applying this policy, the following potentially relevant factors should be considered:

- Relationships involving authority or power: Relationships between two individuals in which one has responsibility over the other's professional or academic development, performance, or future are ethical violations. Consent can sometimes be difficult to discern in these types of relationships, may be deemed not possible, and may be construed as coercive. Such relationships also may have the potential to result in claims of sexual harassment.
- Intention vs. Impact: Prohibited conduct, as defined in this policy, can occur even if the individual engaging such conduct did not intend to engage in such conduct. All parties within CAMC's educational community are expected to understand the conduct that constitutes a violation of this policy. Alleged violations will be evaluated using a reasonable person's understanding of this policy.
- Academic Freedom: The intent of this policy is not to restrict academic freedom in CAMC's educational endeavors. Educational topics with sexual content may be appropriate, but their presentation must not interfere with the rights of others not to be sexually harassed. Anyone with concerns that educational material is being used to sexually discriminate or harass should report those concerns.

## **DEFINITIONS**

**CAMC locations**: Includes the four main campuses of General Hospital, Memorial Hospital, Women and Children's Hospital, and Teays Valley Hospital, and all Physician practice sites, Emergency Departments, Urgent Care Centers and Ambulatory Surgical Centers operated by CAMC.

**Complainant**: a person who may have been subject to Prohibited Conduct as defined in the Policy. The complainant(s) and respondent(s) may be referred to collectively as the parties.

**Confidential Resource:** a professional counsel, pastoral counselor or a health care provider serving in their capacity as a counselor or health care provider and any employee so designated as a confidential resource by their institute or department.

**Educational Program or Activity:** Any program or activity offered at CAMC or by any CAMC employees in the scope of their duties that is educational in nature beyond on-the-job training, general interest or routine continuing education programs. Factors in determining whether a program or activity is educational include whether it is structured through a particular course of study; whether participants earn academic credit toward a degree or certificate, or qualify to sit for professional exams; or whether a program provides instructors, exams or other evaluation process. Educational programs and activities include, without limitation, degree- or certificate-granting programs offered by CAMC and affiliated colleges and universities; clinical rotations for degree- and certificate-granting programs; medical and other residency programs; research and medical fellowships; internships, and educational programs offered to middle school, high school, college and university students.

**Participant:** any person participating in CAMC's educational programs and activities, as defined in this policy and procedure. The term includes, but is not limited to, staff and faculty, preceptors, medical and other residents, research and other fellows, visiting scholars, interns, students and patients participating in educational programs and activities.

**Preponderance of the Evidence:** the standard of proof used to determine if the policy has been violated. To meet this standard, the evidence must show that the conduct considered a violation is more likely than not to have occurred.

**Prohibited Conduct:** conduct that violates the Policy. Prohibited conduct includes sex discrimination, sexual harassment, sexual violence and retaliation, as defined herein.

**Report:** A report of prohibited conduct submitted to CAMC.

**Respondent:** A person whose conduct is alleged to have violated the Policy. The respondent(s) and the complainant(s) may be referred to collectively as the parties.

**Responsible Employee:** An employee who has the authority to address reports of prohibited conduct as defined in this policy. Program directors, administrators, supervisors, program and project managers, coordinators, clinical instructors, clinical educators, mentors, preceptors and faculty members are responsible employees unless they are considered a confidential resource. Confidential resources are professional counselors, pastoral counselors and health care providers, serving in their capacity as counselors and health care providers and any employee designated as a confidential resource by their institute or department.

**Sex Discrimination:** Behavior or action that denies or limits a person's ability to benefit from, or fully participate in, education programs or activities or employment opportunities because of a person's sex, including gender, gender identity, gender

expression or sexual orientation. Examples of the type of discrimination that are covered under Title IX include, but are not limited to, sexual harassment, sexual violence, failure to provide equal opportunity in educational and co-curricular programs, discrimination based on pregnancy, and employment discrimination based on sex in educational and co-curricular programs. Some types of sex discrimination are also considered sexual violence.

**Sexual Harassment:** Conduct on the basis of sex, including gender, gender identity, gender expression or sexual orientation, when:

1. Submission to such conduct is made either explicitly or implicitly a condition of an individual's participation in CAMC's educational programs or activities by an employee of CAMC;
2. Submission to or rejection of such conduct is used as the basis for educational evaluation, grades, or advancement by an employee of CAMC;
3. Such conduct is unwelcome and would be determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to CAMC's educational programs or activities; or
4. Such conduct constitutes sexual violence as defined herein.

Sexual harassment may include, but is not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering; whistling; touching; insulting or obscene comments or gestures; displays of sexually suggestive objects or pictures, offensive images on computers or in email messages; and other physical, verbal or visual conduct of a sexual nature.

**Sexual Violence:** Under this policy, sexual violence includes sexual assault, relationship violence, and stalking.

**Sexual assault** is sexual contact or sexual intercourse without consent, through threat or use of force, or when an individual is incapacitated. Sexual contact is intentional contact, directly, over clothing or with an object, however slight, with the breasts, buttocks, groin or genitals or another, touching another with any of these body parts, or compelling another to touch his or her own body parts or the parts of another in a sexual manner. Sexual intercourse is sexual penetration, however slight, with any body part or object, by an individual upon another.

**Relationship Violence** is physical, sexual, or psychological violence or abuse, including acts of intimidation and coercion, by a current or former partner in an intimate relationship upon the other partner. Relationship violence may be referred to as domestic violence when it involves current or former spouses, individuals who are or were cohabitating or individuals who share a child in common. Relationship violence may be referred to as dating violence when it involves another form of intimate relationship. The existence of an intimate relationship will be evaluated considering the length of the relationship, the type

of relationship, and the frequency of interaction between the persons involved in the relationship.

**Stalking** is a course of conduct or repeated acts directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress. Stalking may include repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or by any other action, device or method.

**Title IX Determination Committee:** A committee of at least five (5) individuals from across CAMC with diverse backgrounds nominated by the Chief Executive Officer or his or her designee. Committee members shall serve terms of two (2) years with no limit on the number of times they may be re-nominated. Before serving on a Determination Panel, each committee member shall be trained on the scope of the Policy, the definitions of prohibited conduct, the investigation process, how to serve impartially, and issues of relevance of questions and evidence.

**Title IX Determination Panel:** A panel of no fewer than three (3) members of the Determination Committee convened as part of the investigation process.

**Retaliation:** Any adverse action or attempt to seek retribution against an individual because of the individual's report, participation in an investigation or resolution of an allegation of Prohibited Conduct as defined in this policy, or exercise of any other right under this policy.

**Consent:** Consent is informed, freely given and clearly communicated willingness to engage in sexual activity. Both words and actions can express consent, but they must create mutually understood permission to engage in the sexual activity. Consent to one form of sexual activity does not, by itself, constitute consent to another form of sexual activity. Silence, without more, is not consent. Consent may be withdrawn at any time through clear words or actions. Once consent is withdrawn, the sexual activity must cease immediately. Consent is absent when force is used, when an individual is incapacitated, in cases of incest or when a person is too young under applicable law to consent to the sexual activity.

**Force** includes physical violence, abuse of power, threats, intimidation, and/or coercion.

**Incapacity** occurs when an individual is impaired temporarily or permanently by a mental and/or physical deficiency, disability, illness, or by the use of drugs or alcohol to the extent that the person lacks sufficient understanding or the ability to make or act on considered decisions to engage in sexual activity. A person violates this policy when they know or should know, based on what a reasonable sober person would have known, that the individual seemingly giving consent is incapacitated.

## **PROCEDURES**

These procedures are intended to be flexible in order to allow CAMC to promptly, fairly and impartially address reports of prohibited conduct. The Title IX Coordinator has discretion to deviate from the procedures when deemed appropriate for that purpose. The Title IX Coordinator may designate another person to fulfill their duties under these procedures. If the Title IX Coordinator has a conflict of interest with respect to a particular report, the Chief Executive Officer shall designate a person to fulfill the duties of the Title IX Coordinator.

### **Reporting**

All reports of emergency situations should be made to 911 or to the appropriate Security emergency number.

Any person may report sex discrimination, sexual harassment, sexual violence or retaliation in CAMC's programs or activities.

All participants in, or applicants to, CAMC's educational programs and activities who believe that they have been subjected to sex discrimination, sexual harassment, sexual violence, or retaliation are strongly encouraged to make a report. Prompt reporting allows CAMC to provide resources to the participant and facilitates an appropriate response. Reports may be made at any time, but delayed reports may limit the availability of evidence and witnesses, and make it difficult for CAMC to respond in an effective and fair matter.

Employees of schools, colleges and universities whose students participate in CAMC educational programs and activities are encouraged, and in some cases required by agreement, to report to CAMC's Title IX Coordinator any information that leads them to reasonably believe that a participant in a CAMC educational program or activity has been subject to Prohibited Conduct under the Policy.

### **Duty to Report**

All Responsible Employees who become aware of information that leads them to reasonably believe that a participant in an educational program or activity has been subjected to prohibited conduct under this policy must promptly make a report to the Title IX Coordinator. All other CAMC employees, except confidential resources, are strongly encouraged to make such a report.

### **Reporting Options**

Reports may be made to:

#### **CAMC Title IX Coordinator:**

Title IX Coordinator

Kristy Fidler

Phone: (304) 388-6709

Email: [TitleIX@camc.org](mailto:TitleIX@camc.org)

Mail: CAMC Title IX Coordinator  
PO Box 3669  
501 Morris Street  
Charleston, WV 25301

Local Law Enforcement: Incidents of prohibited conduct that also constitute criminal conduct (generally, sexual violence) may be reported to the Charleston Police Department or other law enforcement agency. A decision whether to report to law enforcement is left to the complainant except in rare circumstances in which there is an ongoing threat to the community. When a report is made to both the Title IX Coordinator and a law enforcement agency, the Title IX Coordinator will coordinate with law enforcement, as needed, to preserve evidence and achieve other shared goals. At the request of a law enforcement agency, CAMC may temporarily delay an investigation while the law enforcement agency gathers evidence; however CAMC is required to pursue an administrative response to a report regardless of whether a law enforcement investigation is also pursued. Notwithstanding any temporary delay of the investigation, CAMC will provide resources to the complainant and respondent and will implement supportive measures deemed necessary to protect the parties and the community.

Charleston Police Department Non-Emergency Phone Number: (304) 348-8111

Confidential Resources: CAMC employees who are professional counselors, pastoral counselors or health care providers are considered confidential resources when they are serving in their capacities as counselors or health care providers, as are any employees designated as confidential resources. Confidential resources are not required to make reports to the Title IX Coordinator. They are available to provide advice, support, and guidance about how to manage an incident of prohibited conduct without initiating a response by CAMC. A report to a confidential resource is not considered a report to CAMC.

Anonymous Reporting: Reports of prohibited conduct may be made anonymously through the following: (a) Human Resources Hotline – (304)345-2393; (b) Compliance Hotline – (877)777-0787; (c) Safety Hotline – (304)388-SAFE or (d) GME voicemail hotline-304-388-4390. The Title IX Coordinator will address the report to the extent possible with the information provided.

Outside Agencies: Complaints of Title IX violations may be made to the U.S. Department of Education Office of Civil Rights (OCR) or other state or federal agency with jurisdiction over the relevant educational program or activity. Information about how to file a complaint with OCR is available on its website:

<https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>

## **Confidentiality**

CAMC will maintain the confidentiality of reports to the extent reasonably possible consistent with its responsibility to provide a safe educational and work environment, to provide a prompt, fair and impartial resolution of the report and to comply with applicable laws related to reporting. All individuals involved in the resolution of a report are expected to treat all related information as confidentially as possible. Notwithstanding the obligation of confidentiality, the parties may share information related to a report or investigation with their respective support people, advisors and others providing support or assistance to the extent necessary to enable those individuals to provide effective support, advice and assistance.

CAMC will comply with a complainant's request to remain anonymous, or that an investigation not be initiated, if it is possible to do so while also protecting the health and safety of the complainant and the community.

- In such circumstances, CAMC may nonetheless take appropriate steps to eliminate the reported conduct, prevent its recurrence and remedy its effects on the complainant and the CAMC community.
- CAMC will initiate an investigation if, in its sole discretion, it determines that doing so is necessary to protect the health and safety of the complainant or the CAMC community based on the seriousness of the alleged conduct, whether the respondent has been involved in other incidents of misconduct, whether the complainant is a minor, and other relevant information.

The Office of Medical Affairs will be notified if a report involves a member of the medical staff or an Allied Health Professional.

### **Rights of Parties**

Complainants and respondents have the right to be treated with dignity and respect, consistent with CAMC's obligation to respond adequately to a report and to hold community members accountable for their conduct. To that end, complainants and respondents have the following specific procedural rights:

- To request and receive supportive measures as appropriate.
- To have a support person or advisor of their choice present during any meeting or process related to a report of prohibited conduct. The support person or advisor may not be a party or witness to the report. The support person or advisor may attend and advise the party, but shall not actively participate or stand in place of the party.
- To participate fully in the informal and formal resolution processes set forth in these procedures as applicable.
- To decline to participate in any process related to a report. If a party declines to participate, CAMC will still respond to a report based on the information available to it.

- To have any investigation into a report conducted by an appropriately-trained investigator and include an objective evaluation of all relevant evidence in which credibility determinations are not based on an individual's status as a complainant, respondent or witness.
- To receive updates on the progress of an investigation or other process and to be informed of the outcome of any process in a timely manner.
- To not have information considered about sexual predisposition or past sexual conduct, unless the complainant's prior sexual behavior is offered to prove that someone other than the respondent committed the prohibited conduct, or information about specific incidents of the complainant's prior sexual behavior with respect to the respondent is offered to prove consent.

### **Interim Measures**

Upon receipt of a report of prohibited conduct, the Title IX Coordinator may impose appropriate and reasonable measures to ensure equal access to its educational programs and activities and to protect the parties and the CAMC community. Interim measures may include supportive measures or interim suspensions when warranted.

Supportive measures are non-disciplinary, non-punitive individualized services that are available to all parties regardless of whether a complainant pursues an informal or formal resolution of the report. Supportive measures may be imposed or changed at any point during the resolution of a report in order to protect the interests of the parties and CAMC. Supportive measures will be determined on a case-by-case basis considering all relevant circumstances, including, but not limited to, specific requests by the parties, the severity of the allegations, and whether the parties are in the same educational program or share a job location.

Supportive measures may include, but are not limited to, separating individuals ("no contact" orders), counseling or support services, making alternative class placement or workplace arrangements, leaves of absence, escort services or other safety measures. When changes to educational or working conditions are required, the Title IX Coordinator will work with the relevant institute or program to ensure that supportive measures are feasible and appropriate under the circumstances, and consistent with any related policies or procedures with the institute or program.

In cases where there is an immediate threat to the physical health or safety of any individual arising from a report, an interim suspension is appropriate. When a suspension is considered, the Title IX Coordinator will work with Security, the Department of Safety, the Office of General Counsel and the relevant institute or program to conduct an individualized safety and risk analysis before imposing an interim suspension. Any individual suspended under this provision shall be given the opportunity to immediately appeal the interim suspension to an appropriate decision-maker based on the status of the individual.

Failure to comply with interim measures shall constitute a separate violation of the Policy.

## **Resolution of Reports**

### Formal Complaint

Reports of prohibited conduct may be resolved through an informal resolution process or an investigation upon the filing of a formal complaint. A formal complaint is a written allegation that prohibited conduct occurred. Formal complaints may be submitted to the Title IX Coordinator by complainants participating in, or seeking to participate in, an educational program. In the absence of a formal complaint from the complainant, the Title IX Coordinator may sign a formal complaint to initiate an investigation when there is a health or safety risk to either the complainant or to CAMC. A determination whether such a health or safety risk exists shall be made in conjunction with Security, the Department of Safety, the Office of General Counsel and the relevant institute or program.

A formal complaint may be dismissed if the complainant requests to do so in writing to the Title IX Coordinator, if the respondent is no longer affiliated with CAMC, or if the Title IX Coordinator determines, in their sole discretion, that specific circumstances prevent CAMC from gathering sufficient evidence to reach a determination regarding whether a Policy violation occurred.

### Notice

Upon receipt of a formal complaint, the Title IX Coordinator shall provide notice to all parties that includes, if known, the identities of the parties involved, the conduct allegedly constituting prohibited conduct and the location of the alleged incident. The notice shall include the rights of the parties as set forth above and describe the options for informal resolution and investigation as set forth below. CAMC is required by law to include in the notice a statement that the respondent is presumed not responsible for the alleged conduct, that a determination regarding responsibility is made at the conclusion of any investigation, and that knowingly making false statements or submitting false information is a violation of CAMC policy.

### Informal Resolution

CAMC encourages informal resolution of reports when the parties wish to resolve a report cooperatively, whether or not the conduct in question rises to the level of a Policy violation. Informal resolution may include an inquiry into the facts, but typically does not involve an investigation and will not result in a determination whether the Policy has been violated unless agreed by both parties. Informal resolution may not be used when the complainant is a student and the respondent is an employee who is not also a student or trainee.

Participation in an informal resolution process is voluntary and the parties must agree in writing to participate. Any party may end the informal resolution process at any time before it concludes. Informal resolution may include joint or separate mediation discussions, separation of the parties, referral to counseling programs, targeted education and training programs, or any other steps agreed to by the parties. An informal resolution process is expected to take no more than 30 days.

If the parties agree to informally resolve the report, the matter will be considered closed. The Title IX Coordinator will maintain a record of the resolution, will inform relevant offices or institutes of the outcome, and will monitor implementation of the resolution as appropriate.

### Investigation Process

#### Initial Assessment

If a formal complaint has been filed and the parties may not or do not choose to pursue an informal resolution, the Title IX Coordinator will conduct an initial assessment of the allegations in the formal complaint to determine whether the conduct alleged could constitute a violation of the Policy, *i.e.*, whether it meets the definition of prohibited conduct and occurred in locations, events or circumstances over which CAMC exercised substantial control over the respondent and the context in which the prohibited conduct occurred. The purpose of the initial assessment is to end the Title IX process if it is clear that the allegations, even if true, would not constitute a Policy violation. An initial assessment may be based on information provided by the complainant or may include a meeting with the respondent and review of any initial information provided by the parties. The initial assessment is expected to take no more than 15 days from the date of the formal complaint, the end of the informal resolution process, or the complainant's request for an investigation, whichever is latest.

If it is determined through the initial assessment that a Policy violation could have occurred, the Title IX Coordinator will pursue an investigation as described herein. If it is determined through an initial assessment that the allegations, even if true, would not constitute a Policy violation, the resolution process under these procedures will conclude. If the allegations in the report may constitute a violation of another CAMC policy, the report will be referred to the appropriate office for resolution.

#### Investigation

If the initial assessment indicates that a Policy violation may have occurred, the Title IX Coordinator will so inform the parties and will assign one or more investigators.

The Title IX Coordinator may serve as the investigator or may appoint an investigator, who may be a CAMC employee or an internal investigator. All investigators shall have sufficient training and experience to conduct a prompt, thorough and impartial investigation. It is the intention of CAMC to complete investigations within sixty (60) days of the appointment of the investigator if possible.

All parties shall have the opportunity to present statements, provide witness names and submit physical, documentary or other evidence to the investigator. Each party may submit questions to the investigator to be asked of another party. The investigator shall also gather and consider any additional evidence the investigator deems relevant.

When the investigator has finished gathering evidence, the investigator will prepare a summary of evidence, including all evidence gathered related to the allegations in the complaint. The parties shall have ten (10) days to review the summary of evidence and respond to it with comments, additional information or a request that additional investigation be conducted. If the investigator receives significant additional information after the summary of evidence has been provided to the parties, that information will also be shared with the parties for their review and response.

Once the summary of evidence has been reviewed by the parties and their feedback has been incorporated, the investigator shall prepare a final investigative report that includes the revised summary of evidence and a recommended determination whether there has been a violation of the Policy. The recommendations shall be made on the basis of a preponderance of the evidence standard. The basis for any recommended determinations shall be set forth in the final investigative report.

If, in the course of the investigation, the investigator determines that a complainant submitted a report that the complainant knew was false, the investigator shall so determine and the report shall be referred to the appropriate conduct process. Good faith reports, even if they are ultimately unsubstantiated, are not considered false reports. If the investigator determines that the conduct investigated may violate another policy in addition to, or instead of, the Policy, the investigator shall forward the investigation report to the appropriate office for appropriate response.

The respondent may, at any time prior to the issuance of the final investigative report, accept responsibility for the conduct being investigated. If the respondent does so, the Title IX Coordinator will refer the report to the appropriate interdisciplinary official for imposition of any appropriate sanction.

#### Determination Regarding Responsibilities

Upon completion of the final investigation report, the Title IX Coordinator will provide the report to the parties and designate a determination panel. The parties shall be given five (5) days to submit written questions for the determination panel to ask of any party or witness, including the investigator. The determination panel shall review submitted questions either in a meeting or through email or other electronic platform. If the questions are relevant and not otherwise prohibited, they will be forwarded to an appropriate party or witness for response within five (5) days. Responses will be shared with the party who submitted the question, who will be given an additional two (2) days for follow-up. This process will continue until all questions have been answered or the determination panel determines that submitted questions are irrelevant, duplicative or otherwise prohibited. If the determination panel decides that a question is irrelevant,

duplicative or otherwise prohibited, it will provide an explanation for that decision to the party who submitted the question. If the determination panel decides, based on the volume or nature of the questions submitted, that it would be more efficient or appropriate to meet with the parties rather than forward the questions, it may schedule separate meetings with each party and/or with any of the witnesses. In such circumstances, the determination panel will provide a written summary of responses to the party who asked the questions.

When all responses to questions have been received, the determination panel shall meet and make a final determination whether the Policy has been violated. Throughout the investigation, the respondent shall be presumed “not responsible” unless or until the determination panel makes such a final determination. The final determination shall be based on all relevant information available to the panel, including the investigation report and subsequent questions and answers. If the panel determines that the Policy has been violated, it may consult with the respondent’s institute or program as to the appropriate remedies.

### Sanctions

Sanctions that may be implemented for violations of the Policy include expulsion, dismissal or termination of appointment; suspension; disciplinary probation; reprimand; restitution; restrictions on contact or other parties; restrictions on access to facilities; services or programs; community service; specified training or education; or alternative sanctions, such as completing anger management or batterer intervention courses, performing volunteer work, writing essays, completing a 12-step or other addiction program, issuing a sincere apology, and any other remedy appropriate for the circumstances.

### **Appeal**

Either party may appeal the Hearing Panel’s decision to the Chief Strategy Officer. The Chief Strategy Officer may designate another person to fulfill his or her duties under these procedures. If the Chief Strategy Officer has a conflict of interest with respect to a particular report, the Chief Executive Officer shall designate a person to fulfill the duties of the Chief Strategy Officer for purposes of this appeal process.

The appeal must be filed with the Title IX Coordinator within five (5) business days of issuance of the written determination. The basis for appeal may be:

1. That these Procedures were not followed and the failure to follow the Procedures materially adversely affected the outcome;
2. That new evidence exists that was not reasonably available at the time the determination regarding responsibility was made and the new evidence could materially affect the outcome;
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Title IX Coordinator will provide the other party with a copy of the appeal. The other party may submit a response to the appeal within five (5) business days of receipt. The Chief Strategy Officer or designee will conduct a review of the investigative record, the appeal and the response, if any, and issue a final decision. The Chief Strategy Officer or designee may uphold the investigator's determination, may reverse the determination, or may require additional investigation. In fulfilling their responsibility, the Chief Strategy Officer or designee may consult with the Office of General Counsel for guidance.

### **MEASURE OF EFFECTIVENESS**

Compliance with Title IX of the Education Amendments of 1972.

### **RECORD REQUIREMENTS**

None.

### **SUPPORTING LITERATURE**

Title IX of the Education Amendments of 1972 (as amended by the 1988 Civil Rights Restoration Act)

Violence Against Women Reauthorization Act of 2013

34 CFR, Part 106

34 CFR §668.46

### **LINKS**