

SEX-BASED HARASSMENT POLICY
2024 FINAL RULE
Published: August 1, 2024

Sex-based Harassment Policy

This Grievance Procedure applies to incidents that occur on or after August 1, 2024. Any incidents reported under this Grievance Procedure that occurred on or before July 31, 2024 will be processed through the institution's Title IX Grievance Policy.

Should any portion of the 2024 Title IX Final Rule (89 Fed. Reg. 33474 (Apr. 29, 2024)), be stayed or held invalid by a court of law, or if the 2024 Title IX Final Rule is withdrawn or modified to not require elements of this Grievance Procedure, the Grievance Procedures in their entirety, or the invalidated elements of this Procedure, they will be deemed revoked as of the publication date of the opinion or order from the Court and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by the date of the opinion or order publication by the Court. If this Procedure is revoked in this manner, any conduct covered under this Procedure shall be investigated and adjudicated under the previous 2020 Title IX Grievance Policy and/or the Felician University Campus Code of Conduct, found here. Felician University will update this Grievance Procedure as soon as practicable to reflect any court rulings or changes that invalidate parts of the Grievance Procedure, if applicable.

I. Scope of Procedure

Sex-based harassment is considered discrimination on the basis of sex if it includes harassment due to actual or perceived sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

II. Jurisdiction of Procedure

Felician University's Title IX Coordinator will determine if this Grievance Procedure applies to a Complaint. This Grievance Procedure will apply when the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct alleged occurred on or after August 1, 2024;
- The conduct alleged occurred in the United States;
- The conduct alleged occurred in Felician University's Education Program or Activity;
- The conduct alleged, if true, would constitute Sex-based harassment as defined in this Grievance Procedure; or
- The conduct alleged, if true, would constitute Sexual Exploitation, Sexual Misconduct, or Retaliation as defined in this Grievance Procedure.

NOTE: Felician University has an obligation to address a sex-based Hostile Environment under its Education Program or Activity, even when some conduct alleged to be contributing to the

Hostile Environment occurred outside of Felician University's Education Program or Activity, or outside of the United States. Felician University's Title IX Coordinator will work with all Complaints to assess such Complaints that may fall under these criteria, and direct said Complaints to appropriate University Policies and Procedures that may apply if this Grievance Procedure does not. Felician University will communicate all such decisions in writing to the Complainant. Any such dismissals shall be subject to appropriate appeal rights under this Grievance Procedure as outlined in the Dismissals section.

Conduct that occurs under Felician University's Education Program or Activity includes but is not limited to conduct that occurs in a building owned or controlled by a Student organization that is officially recognized by Felician University and conduct that is subject to Felician University's disciplinary authority under Felician University's Campus Code of Conduct.

If all elements of jurisdiction are met, Felician University will investigate the allegations according to this Grievance Procedure as appropriate, unless informal resolution is pursued, or unless there are grounds for dismissal of the Complaint.

III. Non-Discrimination in Application

The requirements and protections of this Grievance Procedure apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by applicable federal, state, or local law. All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness. Individuals who wish to file a Complaint about the institution's policy or process may contact the U.S. Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

IV. Definitions

1. **Admission** means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by Felician University.
2. **Consent** means a knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. For there to be consent and welcomeness, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct and welcomes it. Consent to a specific sexual contact (such as kissing or fondling) cannot be presumed to be consent to another specific sexual activity (such as intercourse). A person who is incapacitated cannot consent or welcome the activity.¹

¹ Under this Policy, a person is incapacitated if he or she is disabled or deprived of the ability to act or reason for oneself, is unable to understand what is happening, or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. Incapacitation is defined as a state where someone cannot make

3. ***Complainant*** means:

(1) a Student or employee who is alleged to have been subjected to conduct that could constitute Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation as defined in this Grievance Procedure and who was participating or attempting to participate in Felician University's Education Program or Activity; or

(2) a person other than a Student or employee who is alleged to have been subjected to conduct that could constitute Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation under this Grievance Procedure and who was participating or attempting to participate in Felician University's Education Program or Activity at the time of the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation.

4. ***Complaint*** means an oral or written request to Felician University that objectively can be understood as a request for Felician University to investigate and make a determination about alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation at the institution.

5. ***Confidential Employee*** means:

(1) an employee of Felician University whose communications are privileged under Federal or State law. The employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

(2) an employee of Felician University whom the institution has designated as confidential for the purpose of providing services to persons related to Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation in connection with providing those services; or

rational, reasonable decisions because they lack the capacity to give knowing consent and to welcome the activity (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from taking an incapacitating substance. A person is incapacitated if the person is temporarily incapable of apprising or controlling the person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance; if a person is unable to communicate an unwillingness to act because the person is unconscious, asleep, or is otherwise physically limited; or if the person has a physical or mental disability that substantially limits the person's ability to resist or flee.

- (3) an employee of Felician University who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation. The employee's confidential status is only with respect to information received while conducting the study.
6. ***Disciplinary Sanctions*** means consequences imposed on a Respondent following a determination under this Grievance Procedure that the Respondent violated Felician University's prohibition on Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation.
 7. ***Education Program or Activity*** means any academic, extracurricular, research, occupational training or other Education Program or Activity operated by Felician University that receives Federal financial assistance.
 8. ***Party*** means Complainant or Respondent.
 9. ***Peer Retaliation*** means Retaliation by a Student against another Student.
 10. ***Relevant*** means related to the allegations of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation under investigation as part of this Grievance Procedure. Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred.
 11. ***Remedies*** means measures provided, as appropriate, to a Complainant or any other person Felician University identifies as having had their equal access to Felician University's Education Program or Activity limited or denied by Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation. These measures are provided to restore or preserve that person's access to Felician University's Education Program or Activity after Felician University determines that Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred.
 12. ***Respondent*** means a person who is alleged to have violated Felician University's prohibition on Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation.
 13. ***Retaliation*** means intimidation, threats, coercion, or discrimination by any person, by Felician University, a Student, or an employee or other person authorized by Felician University to provide aid, benefit, or service under Felician University's Education Program or Activity, for the purpose of interfering with any right or privileged secured by

Title IX, or because the person has reported information, made a Complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Grievance Procedure, including an informal resolution process.

14. ***Sex-based harassment*** means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

(1) *Quid pro quo harassment*. An employee, agent or other person authorized by Felician University's Education Program or Activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) *Hostile Environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Felician University's Education Program or Activity (i.e., creates a Hostile Environment). Whether a Hostile Environment has been created is a fact-specific inquiry that includes consideration of the following: (i) the degree to which the conduct affected the Complainant's ability to access Felician University's Education Program or Activity; (ii) the type, frequency, and duration of the conduct; (iii) the Parties' ages, roles within Felician University's Education Program or Activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct; (iv) the location of the conduct and the context in which the conduct occurred; and (v) other Sex-based harassment in Felician University's Education Program or Activity;

(3) *Sexual Assault* (as defined in the Clery Act, 20 U.S.C. 1092(f)) means any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent;

(4) *Dating Violence* (as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act) means any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

(5) *Domestic Violence* means any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or Domestic Violence laws of New Jersey, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C)

shared a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or Domestic Violence laws of New Jersey²; or

(6) *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

15. ***Sexual Exploitation*** means taking non-consensual or abusive sexual advantage of another for their own advantage or benefits, or to benefit or advantage anyone other than the one being exploited. As per the DOE's Title IX regulations and in compliance with such rules, the University finds that sexual exploitation constitutes sexual harassment. Such misconduct may be reported as a form of sexual harassment in the complaint process as provided herein. Examples of sexual exploitation include, but are not limited to:

- (1) Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed);
- (2) Taking photographs, video recording, or audio recording of another in a sexual act or in any other private activity without the consent of all persons involved in the activity;
- (3) Exceeding the boundaries of consent and welcomeness (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent);
- (4) Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity;
- (5) Sexually based stalking and/or bullying;
- (6) Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection; and/or
- (7) Administering alcohol or drugs (such as "date rape" drugs) to another person without the person's knowledge and consent.

16. ***Sexual Misconduct*** means violations to the Felician University Sexual Misconduct policy, this includes:

² Note: In the State of New Jersey, roommates within an institution's residential housing, also qualify as "cohabitating", when determining if Domestic Violence occurred.

- (1) *Bias-Related Harassment* means any form of harassment on the basis of actual or perceived membership in a protected class, by any member or group of the campus community, which unreasonably interferes with an individual's work or academic environment. Bias-related harassment may be evidenced by oral, written, graphic, threatening and/or physical conduct that is sufficiently severe, pervasive, and objectively offensive so as to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities. Merely boorish or offensive conduct and/or harassment of a generic nature and not based on gender or membership in a protected class may not violate this Policy but may be addressed through education and/or another resolution method;
- (2) *Bullying/Cyberbullying* means implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class;
- (3) *Hazing* means implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class; and
- (4) *Intimidation* means implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class.

17. ***Student*** means a person who has gained Admission to Felician University.

18. ***Supportive Measures*** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) restore or preserve that Party's access to Felician University's Education Program or Activity, including measures that are designed to protect the safety of the Parties or Felician University's educational environment; or (2) provide support during Felician University's Grievance Procedure for Sex-based harassment or during the informal resolution process.

19. ***Violation*** means any other University rule, when it is motivated by sex or gender or the actual or perceived membership of the victim in a protected class, which is prohibited by this Policy and may be reported using the Felician University sexual misconduct complaint process.

V. NOTE: Disability Accommodations

This Grievance Procedure does not alter any institutional obligations under applicable federal state, and/or local disability laws, including the Americans with Disabilities Act of 1990, and

Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedure. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

If the Complainant or Respondent discloses a disability, the Title IX Coordinator or designee may consult, as appropriate, with the Director of the Office of Accessibility Services, or her designee, to provide support to Students with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973 in the implementation of any Supportive Measures, or any other reasonable accommodations requested during the Grievance Procedure.

VI. Basic Requirements of the Grievance Procedure

Felician University is required to:

- Treat Complainants and Respondents equitably;
- Ensure that any person designated by Felician University as a Title IX Coordinator, investigator, or decisionmaker does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent;
- Establish reasonably prompt timeframes for the major stages of this Grievance Procedure, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay;
- Ensure that reasonable steps to protect the privacy of the Parties and witnesses during the pendency of the Grievance Procedure are taken, provided that the steps do not restrict the abilities of the Parties to obtain and present evidence, including by speaking to witnesses (as long as such does not result in Retaliation), consult with their family members, confidential resources, or advisors, or otherwise prepare for or participate in this Grievance Procedure;
- Ensure an objective evaluation of all evidence that is Relevant and not otherwise impermissible under this procedure, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as a Complainant, Respondent or Witness;
- Exclude impermissible evidence from consideration as defined in the Grievance Procedure; and
- Clearly articulate principles for how Felician University will determine which policies and procedures apply if not all such Complaints are handled under this institutional Grievance Procedure.

VII. Reporting to the Institution

Non-Confidential Reports

Any person may report sex discrimination, including Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation (whether or not the person reporting is the person alleged to be the victim of the conduct that may constitute sex discrimination or Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator at Felician University:

Onya Brown, Esq.
Associate Dean of Students/Title IX Coordinator
Student Center (Rutherford Campus)
1 Felician Way
Rutherford, NJ 07070
brownno@felician.edu OR TitleIX@felician.edu
201-355-1431

Confidential Reports

The following officials at Felician University will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited by Title IX:

- Title IX Coordinator or designee(s);
- Officials with Authority to institute corrective measures under Title IX;
- all other employees at Felician University that are not designated as confidential resources

The following officials at Felician University may provide confidentiality:

- A. Counseling and Wellness Center Counselors and Staff
 - i. Kathy Murray, Director
 - ii. April Lennon, Counselor
 - iii. Christine Panepinto, Counselor
 - iv. Lisa Pena, Administrative Assistant
- B. Clergy
- C. Campus Ministry
 - i. Father Thomas Franks, Vice President for Mission Integration
 - ii. Noreen Shea, Director
- D. Attitudes Against Violence
 - i. Taylor Levine, VAWA Coordinator

VIII. Supportive and Interim Measures

Providing Supportive Measures

Complainants who report allegations of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation have the right to receive Supportive Measures from Felician University regardless of whether they file a Complaint. Supportive Measures are non-disciplinary and non-punitive. Supportive Measures may vary depending upon what is reasonably available at Felician University.

As appropriate, Supportive Measures may include without limitation:

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services, as available
- Restrictions on contact applied to one or more Parties (no contact orders)
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Training and education programs related to Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation

Supportive Measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or Felician University's educational environment, or to provide support during Felician University's Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation grievance procedure under this policy, or during informal resolution under this procedure.

Felician University may modify or terminate Supportive Measures at the conclusion of the grievance procedure, or at the conclusion of the informal resolution process, or may continue them beyond that point within Felician University's discretion.

Felician University will not disclose information about any Supportive Measures to persons other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to Felician University's education program or activity, or there is an exception that applies, such as:

- Felician University has obtained prior written consent from a person with the legal right to consent to the disclosure;
- When the information is disclosed to an appropriate third Party with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;

- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation under Title IX in Felician University’s education program or activity;
- As required by Federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under the Family Educational Rights and Privacy Act (FERPA).

Process for Review of Supportive Measures

Felician University provides for a Complainant or Respondent to seek modification or reversal of Felician University’s decision to provide, deny, modify, or terminate a Supportive Measure.

Grounds for challenge of Supportive Measures include, but are not limited to:

- Whether a Supportive Measure is reasonably burdensome;
- Whether a Supportive Measure is reasonably available;
- Whether a Supportive Measure is being imposed for punitive or disciplinary reasons;
- Whether the Supportive Measure is being imposed without fee or charge; and
- Whether the Supportive Measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Grievance Procedure.

Request for a modification or reversal of a supportive measure must be timely and should be submitted within five business days. Felician University will conduct a fact specific inquiry into timeliness.

This review will be conducted by an impartial employee of Felician University, who did not make the challenged decision on the original supportive measure request. The impartial employee of Felician University who makes this determination will have the authority to modify or reverse the decision if that impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the procedures as outlined above for providing Supportive Measures in accordance with the Title IX regulations.

Parties are only allowed to challenge their own individual Supportive Measures. Challenges by one Party will not be heard to Supportive Measures afforded to the opposite Party, unless that supportive measure directly impacts the Party making such challenge (i.e., two-way no contact orders).

Emergency Removal

Felician University retains the authority to remove a Respondent from all or part of Felician University's education program or activity on an emergency basis, where Felician University (1) undertakes an individualized safety and risk analysis, and (2) determines that an imminent and serious threat to the health or safety of a Complainant or any Students, employees, or other persons arising from the allegations of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation justifies removal.

Felician University will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. If the Respondent wishes to challenge the decision, said challenge must be submitted to the Title IX office at TitleIX@felician.edu, within five business days. Upon receipt of said challenge, the Title IX Coordinator, will assign a trained, unbiased designee to review the challenge and render a decision within two business days. The decision made by the trained, unbiased designee, cannot be appealed.

Emergency removals will not be considered Relevant evidence that can be considered in reaching a determination of whether Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred.

Administrative Leave

Felician University retains the authority to place a non-Student employee Respondent on administrative leave during the Title IX Grievance Procedures. Such a decision will be made by Human Resources, in conjunction with the non-Student employee Respondent's direct supervisor. Human Resources may also include outside counsel when making decisions about a non-Student employee Respondent administrative leave.

Note on Student employees: when a Complainant or Respondent is both a Student and an employee of Felician University, the Title IX office, in conjunction with Human Resources, must make a fact-specific inquiry to determine whether these procedures apply to that Student employee. Felician University will consider if the Complainant or Respondent's primary relationship with Felician University is to receive an education and whether the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred while the Party was performing employment-related work.

IX. The Title IX Grievance Procedure for Allegations of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation

A. Filing a Complaint

A Title IX Complaint can be initiated by two entities, a Complainant (as defined in Section V(3) of this policy); or the Title IX Coordinator. As defined in IV(4) of these procedures, a Complaint can be an oral or written request to Felician University that objectively can be understood as a

request for Felician University to investigate and make a determination about alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation at the institution.

In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator must determine whether to initiate a Complaint of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation. This determination is fact-specific, and the Title IX Coordinator must consider:

- The Complainant's request not to proceed with the initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation would occur if a Complaint is not initiated;
- The severity of the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation, including whether the Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of the recipient;
- The scope of the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation, including information suggesting a pattern, ongoing Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation, or Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred; and
- Whether Felician University could end the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation and prevent its recurrence without initiating these grievance procedures.

If after considering these and other Relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents Felician University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a Complaint.

If the Title IX Coordinator does initiate the Complaint after making this determination, the Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures as listed in Section VI of these procedures.

How and Where to Make a Complaint

Any reports of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation may be made directly to the Title IX Coordinator, whose contact information is listed at the beginning of this Grievance Procedure. There are other ways in which a Party may report a Complaint.

Felician University requires that any employee who is not a Confidential Employee and who either has authority to institute corrective measures on behalf of Felician University or has responsibility for administrative leadership, teaching, or advising in Felician University's education program or activity *must* notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination, including Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation.

All other employees at Felician University who are not Confidential Employees and are not employees as identified above are required notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex-discrimination, including Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation.

Felician University Title IX Timeframe

The Title IX Coordinator must evaluate whether the Complaint falls under this Grievance Procedure within ten business days after the Complaint is made and must issue the Notice of Allegations as soon as practicable after the Complaint is evaluated. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, on a case-by-case basis, with good cause and the rationale for the extension or delay.³

B. Multi-Party Situations and Consolidation of Complaints

Felician University may consolidate Complaints alleging Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation arise out of the same facts or circumstances.

Felician University can consider factors when making this fact-specific determination, which include, but are not limited to:

- The facts and circumstances of the particular Complaints when deciding whether to consolidate, including the toll of separate proceedings on the Parties; and

³ Please note that Felician University has an obligation to appropriately evaluate all Complaints, regardless of whether there is a concurrent Complaint before law enforcement. This process is an administrative process that is different from the criminal justice process.

- Any risks to the fairness of the investigation or outcome.

C. Dismissal of a Complaint

Grounds for Dismissal

Felician University may dismiss a Complaint of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation for any of the following reasons:

- Felician University is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in Felician University’s education program or activity and is not employed by Felician University
- The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint through this Grievance Procedure, and Felician University determines that, without the Complainant’s withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation under Title IX or this Grievance Procedure even if proven; or
- Felician University determines that the conduct alleged in the Complaint, even if proven, would not constitute Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation under Title IX or these procedures.⁴

Notice of Dismissal

If Felician University dismisses a Complaint, Felician University is required to promptly notify the Complainant of the basis for dismissal.

If the dismissal of the Complaint occurs before a Notice of Allegations is issued to the Respondent, the Title IX Coordinator does not need to notice the Respondent at that time. However, if the Complainant appeals the dismissal, the Respondent will need to be noticed of the Complaint allegations and given an opportunity to respond to the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then Felician University must notify the Respondent and Complainant of the dismissal and the basis for the dismissal simultaneously in writing.

Appeal rights must also be outlined in any notification of dismissal of a Complaint, as included below under *Appeal of Dismissals*.

Appeals of Dismissals

⁴ Felician University must make reasonable efforts to clarify the allegations with the Complainant before dismissing under this basis.

Felician University must notify the Complainant that a dismissal may be appealed and provide the Complainant with an opportunity appeal the dismissal of a Complaint on the following grounds:

- ***Procedural irregularity***: procedural irregularity that affected the outcome of the matter (i.e., a failure to follow Felician University’s own policy to a degree that had material effect on the outcome of the matter);
- ***New evidence***: New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred, or dismissal of the Complaint was made; and
- ***Bias or Conflict of Interest***: The Title IX Coordinator, investigator(s), or decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter.

If the dismissal occurs after the Respondent has been notified of the allegations, then Felician University must also notify the Respondent that the dismissal may be appealed on the grounds set out above. The submission of appeal stays (or pauses) any sanctions for the pendency of an appeal. Supportive Measures and remote learning opportunities remain available during the pendency of the appeal.

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

Appeals may be no longer than two pages. Appeals should be submitted in electronic form using Times New Roman, 12-point font, and single-spaced. Appeals that do not meet these standards may be returned to the Party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Whether an appeal moves to the Appeals Panel will be decided by the chair of the hearing panel. Appeals that are approved to move to the Appeals Panel stage will be decided by the Appeals Panel. Both the Chair of the Appeals Panel and the Appeals Panel themselves will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. The outcome of the appeal will be provided in writing simultaneously to both Parties and include rationale for the decision.

D. Allegations Potentially Falling Under Two Policies:

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

E. Notice of Allegations

Upon initiating Felician University's Grievance Procedure, the Title IX Coordinator shall provide a Notice of Allegations in writing to the Parties whose identities are known. Such notice will occur as soon as practicable after Felician University receives a Complaint if there are no extenuating circumstances. Felician University will provide the Notice of Allegations within ten business days after receiving a Complaint.

The written Notice of Allegations must include:

- Felician University's Grievance Procedure and Felician University's Informal Resolution process];
- Sufficient information available at the time of the issuance of the Notice of Allegations to allow the Parties to respond to the allegations, which includes the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation under the Grievance Procedure, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to Felician University;
- A statement that the Parties are entitled to:
 - an equal opportunity to access the Relevant and not otherwise impermissible evidence;
- A statement that the Respondent is presumed not responsible for the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation until a determination is made at the conclusion of Felician University's Grievance Procedure and that prior to the determination, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- Parties may have an advisor of their choice, and that the advisor may be, but is not required to be, an attorney;
- Felician University's code of conduct prohibits knowingly making false statements or knowingly submitting false information during Felician University's Grievance Procedure;] and
- If, in the course of an investigation, Felician University decides to investigate additional allegations of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation by the Respondent toward the Complainant that are not included in the original written Notice of Allegations provided, Felician University is required to provide written notice of any additional allegations to the Parties whose identities are known.

To the extent that Felician University has reasonable concerns for the safety of any person as a result of providing a written Notice of Allegations, Felician University through the Title IX Coordinator, may reasonably delay providing the written Notice of Allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

F. Advisor of Choice and Participation of Advisor of Choice

A Party's advisor of choice may accompany the Party to any meeting or proceeding, and Felician University cannot limit the choice of who that advisor may be or their presence for the Parties in any meeting or proceeding unless such advisor does not follow Felician University's established rules of decorum and rules around participation, which can be found [here](#).

G. Investigation

General Rules of Investigations

The Title IX Coordinator and/or a third-party investigator will perform an investigation of the conduct alleged to constitute Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation in a reasonably prompt timeframe, after issuing the Notice of Allegations.

Felician University, and not the Parties, have the burden to conduct an investigation that gathers sufficient evidence to determine whether Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred under this Grievance Procedure. This burden does not rest with either Party, and either Party may decide not to share their account of what occurred or may decide not to participate in the investigation or hearing. This does not shift the burden of proof away from Felician University and does not indicate responsibility.

Felician University cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong, or of whom the records include information. Felician University will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory or exculpatory evidence, as described below.

Notice of participation

Felician University will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate, if a Party is invited or expected to participate in any such meeting or proceeding.⁵

Advisors of Choice and Participation of Advisors of Choice

Felician University will provide the Parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of the advisor for the Complainant or Respondent in any meeting or proceeding. Advisors are not prohibited to speak on behalf of their advisees unless said Advisor is participating in a hearing and cross-examining a Party or witness.

⁵ Please note that a "party", as defined in the beginning of this policy, is the Complainant and/or the Respondent.

Additional Support Persons Beyond Advisors of Choice

Parties may have persons other than the advisor of the Parties' choice present during any meeting or proceeding.

Access to and Review of the Investigative Report

The Title IX Coordinator will provide each Party and their advisors of choice with an equal opportunity to access and review an accurate description of the Relevant evidence collected throughout the investigation that is not otherwise impermissible in the form of an investigative report.

The Parties and their advisors of choice will also have an equal opportunity to access and review the underlying Relevant and not otherwise impermissible evidence summarized in the investigative report upon the request of any Party.

The Title IX Coordinator will provide each Party and their advisors of choice with a reasonable opportunity to respond to the investigative report. Both Parties will have the opportunity to respond to the investigative report prior to and during the live hearing.

Felician University will take reasonable steps to prevent and address the Parties' and their advisors of choice's unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure will be subject to Felician University Campus Code of Conduct and other University policies and/or procedures that may apply.⁶

Review and Access to Relevant and Not Otherwise Impermissible Evidence

Each Party will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not otherwise impermissible, to the Title IX Coordinator or third-party investigator (if applicable). The Title IX Coordinator or third-party investigator (if applicable) will review all evidence gathered through the investigation and determine what evidence is Relevant and what evidence is impermissible regardless of relevance, consistent with this Grievance Procedure.

Each Party and their advisors of choice will have an equal opportunity to review and access the evidence that is Relevant to the allegations of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation and not otherwise impermissible regardless of relevance prior to the

⁶ Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

conclusion of the investigation. The Title IX Coordinator or third-party investigator (if applicable) will provide each Party with a reasonable opportunity to respond to the evidence. Both Parties will have the opportunity to respond to the evidence prior to and during the live hearing.

Felician University will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure may be subject to Felician University's Campus Code of Conduct and other University policies and/or procedures that may apply.⁷

Relevant Evidence

Evidence is Relevant when it is related to the allegations of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation under investigation as part of this Grievance Procedure.

Questions are Relevant when they seek evidence that may aid in showing whether the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred.

Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are excluded as impermissible (i.e., must not be accessed or considered, except by Felician University to determine whether an exception applies, must not be disclosed, and must not otherwise be used) regardless of whether they are Relevant:

- Evidence that is protected under a privileged as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless Felician University obtains that Party's or witness's voluntary, written Consent for use in Felician University's Grievance Procedure; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone

⁷ Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation. Note: the fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation or preclude determination that Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred.

Timeframes

An investigation shall take sixty business days to complete. If there are any delays or extensions, the Title IX Coordinator must appropriately notice the Parties in writing, as detailed below.

Extensions and Delays

Felician University allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the Parties that includes the reason for the extension or delay.

H. Live Hearing

Felician University will not issue a finding or Disciplinary Sanction arising from an allegation of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation without holding a live hearing unless otherwise resolved through an informal resolution process as outlined in this Grievance Procedure.

The live hearing will be conducted with the Parties virtually present in separate locations, with technology enabling the decisionmaker and Parties to simultaneously see and hear the Party or the witness while that person is speaking. Felician University shall create an audio or audiovisual recording or transcript of any live hearing and make it available to the Parties for inspection and review.

A. For Students

Upon completion of the investigative report, the Title IX Coordinator will allow the Complainant, the Respondent, and their advisor, if applicable, the opportunity to view the report, either virtually via Zoom or Team, or in-person in the Title IX office. All parties have ten (10) days to review the information and provide a written response to the Investigator and/or Title IX Coordinator. The institution will provide the parties five (5) business days after the initial inspection and review of evidence to provide additional evidence in response to their inspection and review of the evidence, and then provide the parties three (3) business days to inspect, review, and respond to the party's additional evidence through a written response to the

investigator. Those written responses may be disclosed to the parties. If an investigation reaches the live hearing stage, the parties can expect the following:

- The complaint will be heard by a hearing panel;
- Both the complainant and the respondent will receive equivalent notice of the process;
- The complainant and the respondent will be invited to the Hearing;
- The complainant and respondent will be entitled to the same opportunity to have a support present during the Hearing;
- The support person of choice may be anyone who is ready, willing, and able to comply with these Procedures;
- The complainant and respondent will be entitled to the same opportunity to have an Advisor present during the Hearing;
- The Advisor of choice may be anyone who is ready, willing, and able to act as an Advisor and comply with these Procedures;
- If either party does not have an Advisor, then the University must provide one for the cross-examination part of the Hearing at no cost to either party;
- The University may restrict the participation of the Advisor in the hearing equally;
- Both the complainant and the respondent will have the opportunity to present witnesses having information pertinent to the alleged sexual harassment, sexual misconduct, sexual assault, or retaliation and any relevant information to the Hearing panel during the conduct of the hearing;
- Testimony or other evidence regarding any party's past sexual conduct or misconduct will ordinarily not be permitted, except where there was a prior sexual relationship between the parties and the testimony may be relevant to the issue of consent and welcomeness. If the respondent is found responsible for a violation of the Policy as alleged in the complaint, his or her past sexual misconduct, if any, may be considered in determining the appropriate sanctions or corrective action if it is relevant to the violation at issue;
- The University will document the proceedings;
- The proceeding will be recorded either audibly or audibly and visibly.

Following the hearing, the decision as to whether a Policy violation has occurred will be determined by using a preponderance of the evidence standard. The decision will be made by the Hearing adjudicator who will be a member of the University's senior confidential staff. A finding of a Policy violation by a preponderance of the evidence means that it is more likely than not that the Policy violation occurred. If the hearing concludes with a determination that no Policy violation has occurred, the process ends at that point. Regardless of the outcome, the complainant, the respondent, and the Title IX Coordinator will be notified of the findings in writing.

If, following a hearing, the student is found to have violated University policy, appropriate disciplinary sanctions will be determined after consultation with the Title IX Coordinator. The Vice President of Student Affairs (or designee) will notify the respondent, the complainant, and

the Title IX Coordinator in writing of the Vice President's decision. This written decision must be issued within 10 business days of the completion of the live hearing.

The written findings and determination will include the following:

- Statement of the allegations made that potentially constitute sexual harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including, any notification to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the University's code of conduct and its Title IX Policy to the facts;
- A statement of, and rationale for, the results as to each allegation, including a determination regarding responsibility, any disciplinary sanctions, and corrective actions the University will impose on the respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the complainant; and
- The University's procedures and permissible bases for the complainant and the respondent to appeal from the hearing determinations.

The written findings and determination will be provided to all parties simultaneously and will become final on the date that the University provides the parties with the written determination of the result of any appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Complainant and Respondent (The Parties)

If a Party chooses not to participate in the process or the hearing, the live hearing will still proceed in the absence of a Party, and Felician University will reach a determination of responsibility in their absence, including through any evidence gathered and other witness statements. Felician University will not threaten, coerce, intimidate, or discriminate against any Party in an attempt to secure the Party's participation. The decisionmaker cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the live hearing, or a refusal to answer questions.

The Parties shall be subject to Felician University's rules of decorum, which can be found [here](#).

The Hearing Adjudicator

The hearing adjudicator will be a Felician University faculty or staff member. The hearing adjudicator *will not* serve as the Title IX Coordinator, Title IX investigator, or advisor to any Party in the case, nor will the hearing adjudicator serve on the appeals body in the case. The hearing adjudicator will have no conflict of interest or bias in favor of or against Complainants or

Respondents generally, or in favor of or against the Parties to the particular case. The hearing adjudicator will be trained prior to serving during any hearing. The Parties will have an opportunity to raise any objections regarding the hearing adjudicator's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

Advisor of Choice

The Parties have the right to select an advisor of their choice, who may be, but is not required to be, an attorney. The advisor of choice may accompany the Parties to any meeting or hearing they are permitted to attend but may not speak for the Party. An advisor of choice is not prohibited from being a witness in the hearing. Advisors of choice are subject to Felician University's rules of decorum and may be removed upon violation of the Rules of Decorum, which can be found [here](#).

The advisor of choice may accompany the Parties to any meeting or hearing they are permitted to attend but may not speak for the Party. The Parties and their advisors are not permitted to ask questions of any party or witness themselves; instead, the Parties must propose such questions, in writing, to the hearing adjudicator and the hearing adjudicator will ask the questions that the hearing adjudicator deems Relevant and not otherwise impermissible.

Witnesses

Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from Retaliation. Witnesses are subject to Felician University's rules of decorum and may be removed upon violation of the Rules of Decorum, which can be found [here](#).

Hearing Procedures

For all live hearings conducted, the hearing adjudicator will open and establish rules and expectations for the hearing. The Parties will each be given an opportunity to provide opening statements. Questioning of the Parties and witnesses will occur according to the procedures below.

Questioning Parties and Witnesses

During a live hearing, each Party is allowed to submit Relevant and not otherwise impermissible questions and follow-up questions of the Parties and witnesses through the hearing adjudicator. No questioning of another Party or witness will be conducted by a Party personally.

Procedures for Hearing Adjudicator's Evaluation of Questions and Limitation on Questions

The hearing adjudicator will determine whether a proposed question is Relevant and not otherwise impermissible as described in this Grievance Procedure, prior to the question being posed, and will explain any decision to exclude a question as not Relevant or otherwise impermissible.

If the hearing adjudicator determines that a Party's question is Relevant and not otherwise impermissible, then the question must be asked unless such question is unclear or harassing of the Party or witness being questioned. The hearing adjudicator must give a Party an opportunity to clarify or revise a question that hearing adjudicator has determined is unclear or harassing and, if the Party sufficiently clarifies or revises a question so that it is no longer unclear or harassing, the question must be asked.

Refusal to Respond to Questions and Inferences Based on Refusal to Respond to Questions

A hearing adjudicator may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant and not impermissible. However, the hearing adjudicator must not draw an inference about whether Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred based solely on a Party's or witness's refusal to respond to such questions.

Rule of Decorum

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

1. Questions must be conveyed in a neutral tone.
2. Parties and advisors will refer to other parties, witnesses, advisors, and institutional staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
3. No party may act abusively or disrespectfully during the hearing toward any other party or to witnesses, advisors, or decision-makers.
4. While an advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
5. The advisor may not yell, scream, badger, or physically "lean in" to a party or witness's personal space. Advisors may not approach the other party or witnesses without obtaining permission from the hearing adjudicator.
6. The advisor may not use profanity or make irrelevant *ad hominem* attacks upon a party or witness.
7. The parties may not request that the hearing adjudicator ask repetitive questions. When the hearing adjudicator determines a question has been "asked and answered" or is otherwise not relevant, the decision is final.
8. Parties and advisors may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.

The hearing adjudicator shall have sole discretion to determine if the Rules of Decorum have been violated. The hearing adjudicator will notify the offending person of any violation of the Rules. Upon a second or further violation of the Rules, the hearing adjudicator shall have discretion to remove the offending person or allow them to continue participating in the hearing or other part of the process. Where the hearing adjudicator removes a party's advisor, the party may select a different advisor of their choice, or accept an advisor provided by the institution. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should an advisor be removed. A party cannot serve as their own advisor in this circumstance. The hearing adjudicator shall document any decision to remove an advisor in the written determination regarding responsibility.

Continuances or Granting Extensions

Felician University may determine that multiple sessions or a continuance (a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, Felician University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

Newly discovered Evidence

As a general rule, no new evidence or witnesses may be submitted during the live hearing. If a Party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the Party may request that such evidence or witnesses be considered at the live hearing.

The hearing adjudicator will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The Party offering the newly discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the hearing adjudicator answers in the affirmative to both questions, then the Parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness; or, depending on the magnitude of the newly discovered evidence or witness, by the agreement of the Parties, the hearing may be rescheduled.

I. Determination Regarding Responsibility

Standard of Proof

Felician University uses the preponderance of the evidence standard of proof to determine whether or not Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Grievance Procedure occurred

General Considerations for Evaluating Evidence and Testimony

The decisionmaker is required to evaluate Relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred.

Determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the decisionmaker. Decisionmakers shall not draw inferences regarding a Party or witness' credibility based on the Party or witness' status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a Party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the Party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. However, credibility judgments should not rest on whether a Party or witness' testimony is non-linear or incomplete, or if the Party or witness is displaying stress or anxiety.

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

A witness' testimony regarding third-Party knowledge of the facts at issue will be allowed but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

Communication of the Determination in Writing

All determinations on whether Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred will be communicated to the Parties in writing, simultaneously.

The written determination will include:

- A description of the alleged Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation;
- Information about the policies and procedures that Felician University used to evaluate the allegations;
- The decisionmaker's evaluation of the Relevant evidence and determination on whether Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred;

- Any Disciplinary Sanctions Felician University will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by Felician University to the Complainant, and, to the extent appropriate, other Students identified by Felician University to be experiencing the effects of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation, if there is a finding that Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred; and
- Felician University's procedures for Complainant and Respondent to appeal.

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Felician University within ten business days of the completion of the hearing.

Finality of Determination

The determination regarding responsibility becomes final either on the date that Felician University provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

J. Appeals

Each Party may appeal a determination regarding responsibility. To appeal, a Party must submit their written appeal within five business days of being notified of the decision, indicating the grounds for appeal.

For appeals resulting from dismissal of a Complaint, please see the section on *Dismissal of Complaints*.

Grounds for Appeal

The limited grounds for appeal available are as follows:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred, or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

Additional Procedures for Appeal Process

Felician University will notify the Parties of any appeal, provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome, and will notify the Parties of the result of the appeal and the rationale for the result.

The submission of an appeal stays (or pauses) any sanctions for the period during which an appeal determination is being assessed. Supportive Measures and remote learning opportunities remain available while an appeal is being deliberated and before a final decision has been made.

Appeals may be no longer than five pages. Appeals should be submitted in electronic form to the Title IX Office at TitleIX@felician.edu, using TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals that do not meet these standards may be returned to the Party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Whether an appeal moves to the Appeals Panel will be decided by the chair of the hearing panel. Appeals that are approved to move to the Appeals Panel stage will be decided by the Appeals Panel. Both the Chair of the Appeals Panel and the Appeals Panel themselves will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. The outcome of the appeal will be provided in writing simultaneously to both Parties and include rationale for the decision.

K. OPTIONAL: INFORMAL RESOLUTION

Procedures for Entering and Exiting Informal Resolution Process

At any time prior to determining whether Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred under this Grievance Procedure, including prior to making a Complaint, Parties may instead seek Felician University's assistance to resolve allegations of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation, and may elect to enter the informal resolution process.

The Parties may voluntarily elect to enter Felician University's informal resolution process at any time through an informed written Consent. This informed written Consent will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the Parties.

No Party may be required to participate in informal resolution, and Felician University may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

The Parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a Party elects to leave the informal resolution process, the Grievance Procedure that the Parties paused will continue. In participating in the informal resolution process, the Parties understand that the timeframes governing the Grievance Procedure will temporarily cease, and only reinstate upon reentry into the Grievance Procedure.

Supportive Measures will be available, or continue to be available if already provided, during an informal resolution process, if elected to proceed. The Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure that Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation does not continue or recur within Felician University's Education Program or Activity.

Notice Prior to Entry Into Informal Resolution Process

Before the initiation of an informal resolution process, the Title IX Coordinator must provide to the Parties a written notice that explains:

- The allegations;
- The requirements of the informal resolution process;
- That, prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume Felician University's Grievance Procedure;
- That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming Felician University's Grievance Procedure arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- What information Felician University will maintain and whether and how Felician University could disclose such information for use in its Grievance Procedure if they are initiated or resumed.

Determination to Approve Entry into Informal Resolution Process

Even where the Parties agree to submit a matter to informal resolution, the Title IX Coordinator **may** approve the decision to move the matter to the informal resolution process and may determine that informal resolution is not appropriate under the circumstances.

Factors that Title IX Coordinator may weigh in considering the appropriateness of the informal resolution process include, but are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, whether the alleged conduct would present a future risk of harm to others, and whether the Parties are participating in good faith. This determination is not subject to appeal.

At any time after the commencement of the informal resolution process, the Title IX Coordinator may determine that the informal resolution process is not an appropriate method for resolving the matter and may require that the matter be resolved through the Grievance Procedures. This determination is not subject to appeal.

Role of the Facilitator

Informal resolution processes are managed by trained facilitators. All facilitators must not be the same person as the investigator or the decisionmaker in Felician University's Grievance Procedure. Any person designated to facilitate informal resolution must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The Title IX Coordinator may serve as the facilitator, so long as the Title IX Coordinator was not the investigator during the Grievance Procedure.

All facilitators must have specialized training, required by law and regulation. Such training includes:

- Felician University's obligation to address sex discrimination, including Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation, in its Education Program or Activity;
- The scope of conduct that constitutes sex discrimination, including Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation, under Title IX, including the definition of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation;
- All applicable notification and information requirements related to parental, family, or marital status, including pregnancy and related conditions, and Felician University's response to sex discrimination;
- The rules and practices associated with Felician University's informal resolution process; and
- How to serve impartially, including by avoiding conflicts of interest and bias.

Contents of Informal Resolution Agreements

Potential terms that may be included in an informal resolution agreement between the Parties include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of Felician University's education programs or activities or attendance at specific events, including restrictions Felician University could have imposed as Remedies or Disciplinary Sanctions had Felician University determined at the conclusion of the Grievance Procedure that Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation occurred.

Breach of Informal Resolution Agreements

If a Party breaches the resolution or if Felician University has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, Felician University may void the agreement and initiate or resume the Grievance Procedure.

Confidentiality:

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the Complaint are confidential while the Parties participate in the informal resolution process. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. Should the Parties withdraw from the informal resolution process, information disclosed or obtained for purposes of the informal resolution process *may* be incorporated into the Grievance Procedure, provided that this information is disclosed and reviewed by the Parties under Felician University's Grievance Procedure.

Informal Resolution Options

Felician University offers the following informal resolution procedures for addressing Complaints of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation described under this Grievance Procedure:

Administrative Resolution

Should the Parties mutually determine to enter the informal resolution process, and the Respondent elects to accept responsibility for the allegations of the Complaint at any point during the informal resolution process, the institution may administratively resolve the Complaint.

Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and a decision-maker will convene to determine the Respondent's sanction and other Remedies, as appropriate and consistent with institutional policy. The Parties will be given an opportunity to be heard at the sanctions hearing, including without limitation, the submission of impact statements, and the Parties may be accompanied by their Advisor, but questioning of Parties or witnesses will not be permitted. The Parties will receive simultaneous written notification of the decision regarding sanctions and Remedies, which may be appealed according to the process described above.

Mediation

The purpose of mediation is for the Parties who are in conflict to identify the implications of a Student's actions and, with the assistance of a trained facilitator, identify points of agreement and appropriate Remedies to address them. Either Party can request mediation to seek resolution; mediation will be used only with the Consent of both Parties, who will be asked not to contact one another during the process. The Title IX Office will also review any request for mediation and may decline to mediate based on the facts and circumstances of the particular case. Either

Party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

The mediation process will typically commence within ten business days after the Title IX Office receives Consent to mediate from both Parties and has made its determination to allow informal resolution to go forward. Mediation will continue until concluded or terminated by either Party, the facilitator, or the Title IX Office. During mediation, any potential investigation will halt, and calculations for time frames will be stayed. If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed. If a resolution cannot be reached, the matter will be referred to the Title IX Coordinator to re-evaluate other options for resolution, including investigation or proceeding forward with the Grievance Procedure.

During mediation, a facilitator will guide a discussion between the Parties. In circumstances where the Parties do not wish to meet face to face, either Party can request “caucus” mediation, and the facilitator will conduct separate meetings. Whether or not the Parties agree to meet face to face, each Party will be permitted to bring an advisor of their choice to any meetings who may be, but is not required to be, an attorney.

At the conclusion of the mediation, the facilitator will memorialize the agreement that was reached between the Parties. The Title IX Office will monitor adherence to the proposed solution and close the matter when compliance is satisfactory.

Restorative Justice

A restorative justice (“RJ”) Conference is a dialogue, facilitated by an informal resolution facilitator with appropriate training, intended to restore relationships and repair harm after a conflict has occurred. Both the responsible Party and the individuals affected by the conflict come together to identify what harm was caused and, collaboratively, determine how conflict and trust might be, respectively, resolved and repaired.

A Party may request to engage in RJ at any stage of the disciplinary process, however, restorative justice may not be an appropriate mechanism for all conflicts. To qualify for RJ, the Student accused of wrongdoing must accept responsibility and express remorse for the harm that was caused. The harmed Party must also be willing to accept an apology offered by the Student accused of wrongdoing. Additionally, all involved Parties must agree to and abide by measurable and timely actions within the scope of this Policy and directives. The Title IX Office will review any request for RJ and may decline to initiate RJ based on the facts and circumstances of the particular case.

The RJ Conference proceeds only if all Parties agree to participate willingly. Upon doing so, the RJ process typically commences within ten business days after the Title IX Office receives written agreements from all involved Parties. The conference will continue until the conference is successfully concluded or until the Title IX Office determines that the conference will not be

successful. If successful, an agreeable resolution is reached by all involved Parties, at which time the process is concluded, and the matter is resolved. If a resolution cannot be reached, the matter will be referred to the Title IX Coordinator to re-evaluate other options for resolution.

The Title IX Coordinator will monitor the Parties' adherence to their proposed solution and reserves the right to close the matter when compliance is satisfactory.

X. Retaliation

When Felician University has information about conduct that reasonably may constitute Retaliation under Title IX or its Grievance Procedure, Felician University is obligated to initiate its Grievance Procedure or, as appropriate Felician University's informal resolution process.

Felician University will keep the identity of any individual who has made a report or Complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Complaint of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation or sex discrimination under Felician University's Title IX Grievance Procedure, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under Felician University's Title IX Grievance Procedure.

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

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under Felician University's Grievance Procedure.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX, or its implementing regulations constitutes Retaliation. This includes any charges filed against an individual for Code of Conduct violations that do not involve sex discrimination or Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation, but that arise from the same facts or circumstances as a report or Complaint of sex discrimination or a report or Complaint of Sex-based harassment, Sexual Exploitation, Sexual Misconduct, or Retaliation.

Complaints alleging Retaliation may be filed according to the Felician University Non-Discrimination Policy 2024 Final Rule.

CODE CHARGES:

CODE CHARGE ONE: *Sex-based harassment:* sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

- A. *Quid pro quo harassment.* An employee, agent or other person authorized by Felician University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- B. *Hostile Environment harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Felician University's education program or activity (i.e., creates a Hostile Environment). Whether a Hostile Environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) the degree to which the conduct affected the Complainant's ability to access Felician University's education program or activity;
 - (ii) the type, frequency, and duration of the conduct;
 - (iii) the Parties' ages, roles within Felician University's education program or activity, previous interactions and other factors about each Party that may be Relevant to evaluating the effects of the conduct;
 - (iv) the location of the conduct and the context in which the conduct occurred; and
 - (v) other Sex-based harassment in Felician University's education program or activity;

Code Charge Two: *Sexual Assault:* as defined in the Clery Act, meaning any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent;

Code Charge Three: *Dating Violence:* as defined in the Violence Against Women Act (VAWA) Reauthorization of 2022 and the VAWA Amendments to the Clery Act, is any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) the type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

Code Charge Four: *Domestic Violence:* any felony or misdemeanor crimes committed by a person who: (A) is a current or former partner of the victim under the family or Domestic Violence laws of New Jersey, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shared a

child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or Domestic Violence laws of New Jersey.

Code Charge Five: *Stalking*: engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

Code Charge Six: *Sexual Exploitation*: taking non-consensual or abusive sexual advantage of another for their own advantage or benefits, or to benefit or advantage anyone other than the one being exploited. As per the DOE's Title IX regulations and in compliance with such rules, the University finds that sexual exploitation constitutes sexual harassment. Such misconduct may be reported as a form of sexual harassment in the complaint process as provided herein. Examples of sexual exploitation include, but are not limited to:

- (i.) Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed);
- (ii.) Taking photographs, video recording, or audio recording of another in a sexual act or in any other private activity without the consent of all persons involved in the activity;
- (iii.) Exceeding the boundaries of consent and welcomeness (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent);
- (iv.) Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity;
- (v.) Sexually based stalking and/or bullying;
- (vi.) Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection; and/or
- (vii.) Administering alcohol or drugs (such as "date rape" drugs) to another person without the person's knowledge and consent.

Code Charge Seven: *Sexual Misconduct*: violations to the Felician University Sexual Misconduct policy, this includes:

- (i.) *Bias-Related Harassment* means any form of harassment on the basis of actual or perceived membership in a protected class, by any member or group of the campus community, which unreasonably interferes with an individual's work or academic environment. Bias-related harassment may be evidenced by oral, written, graphic, threatening and/or physical conduct that is sufficiently severe, pervasive, and objectively offensive so as to interfere with, limit, or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities. Merely boorish or offensive

conduct and/or harassment of a generic nature and not based on gender or membership in a protected class may not violate this Policy but may be addressed through education and/or another resolution method;

- (ii.) *Bullying/Cyberbullying* means implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class;
- (iii.) *Hazing* means implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class; and
- (iv.) *Intimidation* means implied threats or acts that cause a reasonable fear of harm in another on the basis of actual or perceived membership in a protected class.

Code Charge Eight: Retaliation: intimidation, threats, coercion, or discrimination by any person, by Felician University, a Student, or an employee or other person authorized by Felician University to provide aid, benefit, or service under Felician University's Education Program or Activity, for the purpose of interfering with any right or privileged secured by Title IX, or because the person has reported information, made a Complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Grievance Procedure, including an informal resolution process.

SANCTION RANGES:

The following sanction ranges apply for Prohibited Conduct under this Policy as further defined in the University Regulations. Sanction considerations are wholly independent from, and are made subsequent to, a hearing adjudicator's analysis of whether a policy violation occurred. Sanctions under this Policy typically result in a primary sanction(s) combined with additional sanctions that are educational, preventative, restorative, and/or rehabilitative in nature, as appropriate.

Sanctions can be assigned outside of the specified ranges based on aggravating or mitigating circumstances, or the Party's cumulative conduct record. The hearing adjudicator will issue a written determination that includes a Policy finding as to each allegation and rationale for the result, any disciplinary sanctions imposed by the University against the Party, and whether remedies will be provided by the University to the Complainant.

A. Sex-Based Harassment

1. Quid Pro Quo Harassment: warning through dismissal or termination
2. Hostile Environment Harassment: warning through dismissal or termination
3. Sexual Assault: probation through dismissal or termination
4. Dating Violence: probation through dismissal or termination
5. Domestic Violence: probation through dismissal or termination
6. Stalking: warning through dismissal or termination

B. Sexual Misconduct

1. Bias-Related Harassment: warning through dismissal or termination
2. Bullying/Cyberbullying: warning through dismissal or termination
3. Hazing: warning through dismissal or termination
4. Intimidation: warning through dismissal or termination

C. Sexual Exploitation

1. Sexual voyeurism: warning through dismissal or termination
2. Taking photographs, video recording, or audio recording of another in a sexual act or in any other private activity without the consent of all persons involved in the activity: probation through dismissal or termination
3. Exceeding the boundaries of consent and welcomeness: probation through dismissal or termination
4. Unauthorized sharing or distribution of digital, video, or audio recording of nudity or sexual activity: probation through dismissal or termination
5. Sexually based stalking and/or bullying: warning through dismissal or termination
6. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection: probation through dismissal or termination

7. Administering alcohol or drugs (such as "date rape" drugs) to another person without the person's knowledge and consent: probation through dismissal or termination

D. Retaliation: warning through dismissal or termination