



**ANTI-DISCRIMINATION,  
HARASSMENT (INCLUDING SEXUAL MISCONDUCT/TITLE IX)  
AND RETALIATION POLICY**



Dear Adelphi Community,

Adelphi is a community committed to achieving diversity and inclusiveness, and to fostering a constructive environment where all our members benefit from learning and working together. Through the lens of this commitment, below is an excerpt from the Adelphi University policy on anti-discrimination, harassment and retaliation that clearly states our principles in this area:

*Discrimination, harassment (including sexual misconduct), and retaliation of any type will not be tolerated at Adelphi University. Upon notice, the University will act to: end the discrimination, harassment or retaliation; prevent its recurrence; and remedy the effects of the alleged conduct.*

This policy is more than just words—it is embedded in our culture. All members of our community are welcome and encouraged to be their authentic selves, and in turn we expect that this respect will be given to others.

Adelphi is a safe place to learn, work and grow as an individual, and we uphold each community member's right to a welcoming and supportive environment. Thank you for sharing in our commitment.

All the best,

A handwritten signature in black ink that reads "Christine M. Riordan". The signature is fluid and cursive, with the first name "Christine" being more prominent.

Christine M. Riordan, President

Dear Members of the Adelphi Community,

Adelphi's commitment to a safe and welcoming environment is supported by our Title IX policy and our commitment to investigate all concerns regarding discrimination, harassment (including sexual misconduct), and any resulting retaliation. Please feel free to review the entire policy within.

To file a complaint, fill out the [online reporting form](#). For emergency assistance, contact the Department of Public Safety and Transportation at (516) 877-3511, or dial 5 from a campus phone.

Your complaint can be filed anonymously, however information provided may be shared with the person(s) accused. Although absolute confidentiality cannot be guaranteed in all cases, the University will treat the concerns of all complainants with sensitivity and respect, and maintain the privacy of all parties to the greatest extent possible.

Complaints are reviewed by the Director of Employment, Employee and Labor Relations and the Title IX Coordinator, Director of Equity and Compliance.

Sincerely,

Cindy Donnelly  
Chief Human Resources Officer

Renaire Frierson  
Title IX Coordinator, Director of Equity and  
Compliance

# ANTI-DISCRIMINATION, HARASSMENT (INCLUDING SEXUAL MISCONDUCT) AND RETALIATION POLICY

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## **I. STATEMENT OF POLICY AND NON-DISCRIMINATION**

Adelphi University (the “University”) is proud of its work and academic environment and strives to maintain a pleasant and collegial environment for employees, students, guests and visitors, all of whom are expected to treat each other with courtesy, consideration and professionalism. The University will not tolerate discrimination, harassment or retaliation based on the protected status of an individual's race, creed, color, national origin, sex, gender identity, gender expression, age, marital status, disability, ethnicity, sexual orientation, predisposing genetic characteristics, religion, pregnancy, military status, veteran status, status as a victim of domestic violence, criminal conviction status, or any other basis protected by applicable local, state or federal laws. This Policy prohibits unlawful discrimination, harassment (including sexual misconduct), and retaliation, including derogatory or inappropriate remarks, slurs, or jokes related to any protected class. The University will make this Policy available in various and appropriate places on campus and on the University website.

In accordance with Title IX of the Education Amendments of 1972 and its implementing regulations (“Title IX”), the University does not discriminate on the basis of sex in the education program or activity that it operates, including admissions and employment. Title IX requires the University not to discriminate in such a manner. Any inquiries about the application of Title IX and related issues of sex discrimination may be referred to the University’s Title IX Coordinator, the U.S. Department of Education’s Assistant Secretary for Civil Rights, or both.

Renaire Frierson  
Adelphi University  
Title IX Coordinator,  
Director of Equity and Compliance  
One South Avenue  
Levermore Hall, Room 207  
Garden City, NY 11530  
Telephone: 516-877-4819  
Email: [titleix@adelphi.edu](mailto:titleix@adelphi.edu)

U.S. Department of Education  
Office for Civil Rights  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Telephone: 1-800-421-3481  
Fax: 202-453-6012;  
TDD: 1-800-877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Discrimination, harassment (including sexual misconduct), and/or retaliation in any context, in addition to being unlawful, is reprehensible and is a matter of particular concern to an academic community in which students, faculty and staff are related by strong bonds of intellectual interdependence, collegiality, and trust.

The University is committed to preventing, investigating, and remedying violations of this Policy. Members of the community who perpetrate prohibited behavior are subject to the full range of institutional disciplinary actions, up to and including separation from the University and/or referral to authorities for criminal prosecution, as appropriate. Non-members of the community, such as guests or

visitors, who inflict such behavior on the University's campus, at campus events or within campus programs may be referred for criminal prosecution and/or barred from campus events and property and/or referred to institutions or employers with which they are affiliated. Guests and/or visitors impacted by discrimination, harassment (including sexual misconduct), and/or retaliation are protected by these policies and procedures.

A violation of any University policy which is motivated by the actual or perceived membership of the victim in a protected class may be investigated, resolved and remedied under this Policy. Any misconduct related to an investigation into a violation of this Policy may also be investigated under this Policy.

## **II. SCOPE OF POLICY**

### **A. Who is Covered by this Policy**

This Policy applies to: anyone involved in the University's academic, educational, recreational, and living programs; visitors, guests and campers; applicants in the admissions process; and recipients and/or providers of Adelphi's programs or services, including participants in Adelphi-based research projects and activities, student teaching, internships and field placements regardless of locations; subcontractors, all employees (including faculty and staff) and applicants for employment in all positions. All of these groups are included in the terms "University community" and "campus community."

The protections in this policy apply to the campus community regardless of race, creed, color, national origin, sex, gender identity, gender expression, age, marital status, disability, ethnicity, sexual orientation, predisposing genetic characteristics, religion, pregnancy, military status, veteran status, status as a victim of domestic violence or criminal conviction

### **B. Scope of Policy as it Relates to Location of Incident**

This Policy encompasses University-sponsored events that occur off-campus; all campuses and/or Campus Centers or sites; off-campus incidents that have an on-campus impact or affect members of the campus community regardless of whether such members are on or off campus. This Policy also applies to events sponsored by other individuals or entities that may take place on any campus or campus center or site of Adelphi University, regardless of whether or not members of the campus community are involved.

### **C. Scope of Policy as it Relates to Online Speech or Conduct**

This Policy applies to online speech or conduct, such as social networking sites, which causes a substantial disruption to University operations and/or mission or affects members of the campus community.

#### **D. Scope of Policy as it Relates to Allegations of Sexual Misconduct**

This Policy applies to all cases involving allegations of sexual misconduct that have a reasonable connection to the University, whether the conduct occurred on campus, off campus or while studying abroad.

#### **E. Scope of Policy as it Relates to Individual Speech and Academic Freedom**

The role of universities in the community is to encourage the free flow of thoughts and ideas essential to higher education. Therefore, while Adelphi University does not encourage offensive or insensitive speech, principles of academic freedom may limit the University's ability to restrict speech that is germane to academic subjects and pedagogically appropriate to those subjects. However, when speech rises to the level of discrimination, harassment (including sexual misconduct), and/or retaliation as defined herein, it cannot be protected by academic freedom and will be considered to be a violation of this Policy.

### **III. DISCRIMINATION, HARASSMENT (INCLUDING SEXUAL MISCONDUCT) AND RETALIATION**

Definitions for terms used throughout the Policy are located in Appendix B.

Discrimination, harassment (including sexual misconduct), and/or retaliation can occur between individuals of the same or different status, and all persons, regardless of gender, sexual orientation or gender expression, can be the subject of or perpetrator of this conduct. This conduct can involve individuals or groups; can occur during one incident or over a series of incidents that in isolation would not necessarily constitute discrimination or harassment, but can be so by pattern or repetition over time; and can be direct or systemic.

Each member of the University community should avoid conduct that may be perceived by a reasonable person as discrimination, harassment (including sexual misconduct), and/or retaliation. Failure to recognize that your behavior is harassing or discriminatory to an individual or group of individuals is not an acceptable defense to discrimination, harassment (including sexual misconduct) and/or retaliation. Differences in perception on the part of individuals involved in complaints of discrimination, harassment (including sexual misconduct) or retaliation will be resolved based on the "reasonable person" standard in evaluating offensive behavior. Accordingly, all members of the University community should consider how a reasonable person may view their behavior, notwithstanding their intent.

### **IV. PROHIBITED RELATIONSHIPS AS SEXUAL HARASSMENT**

The relationship between faculty and students is central to the academic mission



of the University. Personal ties should not be allowed to interfere with the academic integrity of the faculty/student relationship. With respect to sexual, amorous or romantically intimate relations in particular, what might appear to be consensual, even to the parties involved, may in fact not be so, due to the inherent imbalance of power.

Therefore, professors, instructors, coaches and/or graduate assistants, are prohibited from having sexual relations and/or romantically intimate or amorous relationships with any student they teach, supervise, coach or advise. Similarly, any administrator or employee in a supervisory role may not have sexual relations and/or romantically intimate or amorous relationships with any student or employee they supervise directly or indirectly. Examples include but are not limited to: sexual relations between a student and an administrator, coach, advisor, program director, counselor, or professional residential staff member who has oversight responsibility for a student. The University will respond to all reports of prohibited or inappropriate sexual, amorous or romantically intimate behavior.

In acting on complaints that come to the University's attention, sexual harassment will be presumed to have occurred in violation of this Policy if the employee has engaged in sexual, amorous or romantically intimate relations with a student while the individual was teaching or otherwise had, or is likely to have, supervisory responsibility or academic or professional influence over the student regardless of whether the sexual, amorous or romantically intimate relations were consensual or not.

If, after the commencement of a consensual sexual, amorous or romantically intimate relationship, that is not prohibited by this Policy, the parties learn that due to a change in their duties, responsibilities, assignments or positions, their relationship will now be prohibited, both parties are required to notify the Title IX Coordinator as soon as possible in order to determine how to proceed. Notification is required regardless of whether the consensual relationship still exists.

Persons involved in consensual sexual, amorous or romantically intimate relationships outside of the faculty/student, supervisor/subordinate, or others previously noted, must exercise caution to prevent the development of harassing behavior or use of authority inappropriately. Consensual relationships can change and conduct once welcomed by both, may become unwelcome to one. The fact that there is initial consent to forming a romantic relationship or a specific sexual encounter does not preclude a charge of harassment in the future or transform unethical behaviors into acceptable conduct.

## **V. REPORTING DISCRIMINATION, HARASSMENT (INCLUDING SEXUAL MISCONDUCT) AND/OR RETALIATION**

### **A. Required Reporting and Cooperation in the Process**

All members of the University community, including students, faculty, and staff are strongly encouraged, if not required (see Responsible Employees section below) to report all violations of this Policy and cooperate in the application of this Policy, including any investigation under this Policy. University community members are expected to acknowledge and respond to requests for information from University officials or their designees in a timely fashion, as well as be available for discussions with such individuals. Any person who knowingly misrepresents the truth, or whose willful action or inaction obstructs the application of these procedures, will be subject to disciplinary action.

## **1. “Responsible Employees”**

While all members of the University community are strongly encouraged to report conduct that violates this Policy, certain University employees, including all persons who act in a supervisory, managerial, or instructional role,<sup>1</sup> are required to report conduct in violation of this Policy. Employees who are obligated by this Policy to share knowledge of alleged discrimination, harassment (including sexual misconduct) and/or retaliation with the Title IX Coordinator are referred to as “responsible employees.”

Responsible employees of the University include, but are not limited to: public safety officers, faculty, deans, managers, resident assistants, resident hall directors, residential life directors, senior administrators and supervisors. A responsible employee must report all relevant details about the alleged misconduct shared by the reporting individual to the Title IX Coordinator. A responsible employee will strive to maintain privacy and information reported to the responsible employee will be shared only with those having a need to know such information in order to respond in accordance with University policy. “Responsible employees,” can be held responsible for actions or inaction that obstructs the application of this Policy.

## **2. Confidential Research Exception**

The requirements with respect to reporting and cooperation do not apply to faculty or students conducting confidential research under the supervision of an IRB, who, in the course of conducting such research, obtain information from research participants about sexual harassment, sexual violence, dating violence, domestic violence, stalking victimization or other violations under

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<sup>1</sup> Pursuant to the New York State Human Rights Law (“NYSHRL”), all supervisors and managers who receive knowledge or information about suspected sexual misconduct, observe what may be sexually harassing behavior or for any reason suspect that sexual misconduct is occurring, are required to report such suspected sexual misconduct to the Title IX Coordinator. In addition to being subject to discipline if they engaged in sexual misconduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual misconduct or otherwise knowingly allowing sexual misconduct to continue. Supervisors and managers will also be subject to discipline for engaging in any retaliation.

this Policy (subject to certain exceptions specified by IRB). In such cases, research participants must be informed that disclosures of the above offenses made during the course of the research will not be considered notice to the University for the purpose of initiating an investigation.

Researchers should provide research participants with information regarding their options to report the misconduct to the Title IX Coordinator, the Department of Public Safety and Transportation and the local or state police, as well as the confidential resources available at the Student Counseling Center, Student Health Services, Campus Chaplains, and other community resources listed in the following brochures:

- *What Every Adelphi Student Needs to Know About Sexual Assault*
- *What Every Adelphi Student Needs to Know about Domestic Violence, Dating Violence and Stalking*

These brochures can be found at [adelphi.edu/handbooks](http://adelphi.edu/handbooks).

### **3. Reports Involving Minors**

Adelphi is committed to the prevention of child abuse. Child abuse includes both the physical and sexual abuse of individuals under the age of eighteen. All Adelphi University employees are directed to bring all reasonable suspicions, beliefs and allegations of child abuse immediately to the attention of Public Safety or the Title IX Coordinator, who will then make the appropriate report to the New York State Child Abuse Hotline (State Central Register). Reports can also be made directly to the Child Abuse Hotline at 800-342-3720.

#### **B. Confidentiality and Privacy in the Reporting Process**

Confidentiality will be maintained to the extent required by law and to the extent possible given the University's obligations under law and under this Policy. At the beginning of the process, the University will inform the complainant about confidentiality standards and privacy concerns, as well as confidential and other resources available.

However, even offices and employees that cannot guarantee confidentiality will maintain the privacy of all parties to the greatest extent possible. Information provided to a non-confidential resource will be relayed only as necessary to the required administrators in order to investigate and seek resolution of the case.

The University will evaluate a request for confidentiality or not to act on a complaint in the context of its responsibility to provide a safe and nondiscriminatory environment for all members of the community. Therefore, while absolute confidentiality cannot be promised, the University will treat the concerns of the complainant with sensitivity and respect. The University will also assist with reasonable academic, housing, transportation, employment and other accommodations requested regardless of reporting choices. A request for

confidentiality however may limit the University's ability to respond.

## **1. Confidential Resources and Support**

The University encourages all members of the Adelphi community to report incidents related to this policy. However, individuals who are not ready or willing to make a formal report, but who still wish to speak with someone, can utilize the confidential on-campus resources of the Student Counseling Center, Student Health Services or the Campus Chaplains, as well as off campus mental health providers listed on the University website. These resources are subject to legal confidentiality obligations that prohibit the release of information without the express consent of the individual. For more information, see <http://operations.adelphi.edu/handbooks/>.

## **2. Amnesty**

The health and safety of every student at the University is of utmost importance. Adelphi University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to University officials or law enforcement will not be subject to the University's *Code of Conduct* action for violations of alcohol and/ or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

## **C. The Reporting Process**

Any employee, student, or third party who believes that they may have been subjected to discrimination, harassment (including sexual misconduct) and/or retaliation is strongly encouraged to report this in accordance with the procedures set forth in this Policy. Please see section VII of this Policy for additional provisions regarding the requirements and processes for reporting Title IX sexual harassment.

For emergency or immediate assistance (twenty-four hours a day, seven days a week) contact the Department of Public Safety and Transportation (516) 877-3511 or dial 5 from any campus phone. All emergency contact numbers are listed on the reverse side of your Adelphi identification card.

If you are a student complainant, contact R. Sentwali Bakari (Vice President for Student Affairs), [sbakari@adelphi.edu](mailto:sbakari@adelphi.edu) or (516) 877-3151, Joseph De Gearo (Dean

of Students and Strategic Initiatives), [degearo@adelphi.edu](mailto:degearo@adelphi.edu) or 516.877.3654, or Renaire Frierson (Title IX Coordinator, Director of Equity & Compliance), [titleix@adelphi.edu](mailto:titleix@adelphi.edu) or (516) 877-4819.

- a. If you are an employee or third party complainant, or if you have questions pertaining to this policy, contact Jane Fisher (Director of Talent Management and Labor Relations), [fisher2@adelphi.edu](mailto:fisher2@adelphi.edu) or (516) 877-3222 or Renaire Frierson (Title IX Coordinator, Director of Equity & Compliance), [titleix@adelphi.edu](mailto:titleix@adelphi.edu) or (516) 877-4819.
- b. In addition, you may contact any member of the Anti-Harassment, Discrimination (including Sexual Misconduct), and Retaliation Panel ("Anti- Discrimination Panel") listed at the end of this document.

To file a complaint involving R. Sentwali Bakari, Joseph de Gearo, or Jane Fisher, contact the Title IX Coordinator, Director of Equity & Compliance, Renaire Frierson, as above. To file a complaint involving the Title IX Coordinator, please direct your complaint to Jane Fisher, as above. Anyone who reports misconduct to the above resources will be informed about this process as outlined in this Policy.

You may also report online to:

<https://www.adelphi.edu/hr/title-ix/report/#report>

You may choose to file this complaint form anonymously. This form will be received and reviewed by the Director of Employment, Employee and Labor Relations and/or the Title IX Coordinator, Director of Equity and Compliance. The University will comply with all federal, state and local mandates regarding the reporting of crimes to appropriate authorities.

Inquiries concerning the application of Title IX may be referred to the University's Title IX Coordinator, Director of Equity & Compliance, Renaire Frierson at [titleix@adelphi.edu](mailto:titleix@adelphi.edu) , Levermore Hall, Room 207, 1 South Avenue, Garden City, NY 11530, (516) 877-4819, or

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481,  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172,  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr> or

U.S. Equal Employment Opportunity Commission (EEOC) 131  
M Street, NE  
Washington, DC 20507  
202-663-4900 / (TTY) 202-663-4494, 1-800-669-4000  
Email [info@eeoc.gov](mailto:info@eeoc.gov),  
Web:

<http://www.eeoc.gov/contact/index.cfm>

Additional reporting options relating to NYSHRL sexual harassment and retaliation are discussed in Appendix C.

#### **D. Making a Report to the Police**

A complainant may contact local law enforcement or the State Police directly, whether or not a complaint has been filed with the University; a complainant may also decline to notify law enforcement. It is important to preserve evidence as may be necessary to prove crimes or in obtaining an order of protection. If requested, the University will provide assistance making this contact. Upon notice of the complaint the University's investigation will proceed regardless of whether a criminal matter is pending, though short delays may be allowed for outside law enforcement agencies to conduct their investigation.<sup>2</sup>

#### **E. Other Proceedings**

The University's investigation is independent of any civil or criminal investigation or proceeding. The University's investigation and related proceedings may be carried out prior to, simultaneously with, or subsequent to any related civil or criminal proceeding and will not be subject to challenge or delay based on the grounds that criminal or civil proceedings involving the same incident have been dismissed, reduced or are pending. Action pursued through the criminal justice process is governed by the penal law and the criminal procedure law.

#### **F. Timing of Report and Investigation**

There is no time limit on when a report or complaint may be made. The University will conduct an investigation and make all efforts to provide a resolution of a complaint, including investigations and grievance processes, but excluding the appeal process, within sixty (60) to ninety (90) business days from the time the University receives notice. However, the resolution of a complaint may vary depending on the complexity of the investigation and/or extent of the alleged harassment or discrimination.

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<sup>2</sup> For sexual misconduct cases, temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.

## **G. Additional Rights for Reporting Individuals and Complainants in Sexual Misconduct Cases**

Reporting Individuals and Complainants in sexual misconduct cases are afforded specific rights in addition to those described above. These additional rights are described in Appendix D.

## **VI. SUPPORTIVE MEASURES, EMERGENCY REMOVALS, AND NO CONTACT ORDERS<sup>3</sup>**

### **A. Supportive Measures**

Supportive measures are non-disciplinary and non-punitive individualized services provided to a party which are designed to restore or preserve equal access to the University's education program or activity for that party without unreasonably burdening the other party. Such measures include those designed to protect the safety of all parties or the University's educational environment as well as measures to deter prohibited conduct under this Policy. Supportive measures can range from referral to supportive services such as counseling or medical services to class/housing/office modifications, withdrawals, leaves of absence, and no-contact orders.

Provided it has notice or it is otherwise aware of prohibited conduct, the University (through the Title IX Coordinator) will provide supportive measures, as appropriate and reasonably available, to the parties for free. Supportive measures can be provided before or after a complaint or formal complaint has been filed and even where no complaint or formal complaint has been filed. In other words, parties are entitled to receive reasonable and appropriate supportive measures once the prohibited conduct is reported to the University, regardless of whether the process ever continues past that point. When offering supportive measures, the Title IX Coordinator will inform the complainant, in writing, that they may file a complaint or formal complaint at any time.

The University will maintain as confidential any supportive measures provided to the parties other than as needed to provide the supportive measures. The Title IX Coordinator will work with the complainant to determine their requests for supportive measures and confirm that such requests are considered.

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<sup>3</sup> Please note that for purposes of this Policy, the accommodations and protective measures that are required to be provided to a complainant under the Clery Act are incorporated into the definition of supportive measures as well as the process for which such measures and accommodations are provided to the complainant.

The determination of appropriate supportive measures is based on the facts and circumstances of each individual situation. Supportive measures include but are not limited to:

- Providing campus escort services;
- Modifications to work or class schedules;
- Extensions of deadlines or other course-related adjustments;
- Changes to work, academic, housing, living, transportation, or other applicable situations including changes in residence hall assignments or office locations;
- Providing counseling and academic support services, such as tutoring;
- Referral to counseling, medical and/or other healthcare services;
- Providing course-related adjustments such as extensions of deadlines;
- Providing leaves of absence;
- Establishing restrictions on contact (no-contact orders) between the parties;
- Providing increased security, supervision or monitoring of certain areas of the campus; and
- Other similar measures or any other actions deemed appropriate

The University will review the facts and circumstances of each case and will implement measures in a way that does not unreasonably burden the other party. Upon written request and in accordance with University policies, a student may seek prompt review of the need for/terms of provided supportive measures to the extent the challenged supportive measure has a direct impact on them. This request should include the basis for the request and any supporting evidence. A student may also ask for review of a request for additional supportive measures and submit evidence in support of the request. Such requests should be submitted in writing to the Title IX Coordinator. The other party will have the right to respond to the request for review to the extent the relevant supportive measure has a direct impact on them.

## **B. Emergency Removals**

If the Title IX Coordinator, in consultation with other University administrators as needed, determines based on an individualized safety and risk analysis that an immediate threat to the physical health or safety of any individual justifies it, the University will remove a respondent from its education program or activity on an emergency basis. Such a removal may be, but is not limited to, an interim suspension.

In determining whether an interim suspension is appropriate based on allegation of prohibited conduct, the University will consider, among other things, the following factors:

- Whether there have been other sexual misconduct reports, complaints, or



- formal complaints about the same respondent;
- Whether the incident involves a weapon or violence;
  - Whether the respondent has a history of arrests or disciplinary records;
  - Whether the incident represents an escalation in and unlawful conduct on behalf of the respondent from previously noted behavior; and
  - Whether there is an increased risk that the respondent will commit additional acts of violence.

The University will provide the respondent with written notice and an opportunity to challenge the University's decision immediately following the removal. Both parties may request a review, reasonable under the circumstances, of the need for and terms of an emergency removal, including potential modification, and may submit evidence in support of their request to the Title IX Coordinator. Upon receipt of such a request, the Title IX Coordinator will inform the other party of the request and allow the other party to respond in writing and to submit evidence relevant to the request if desired.

The implementation and terms (such as the conditions or duration) of the emergency removal are at the discretion of the Title IX Coordinator and the Vice President for Student Affairs and Dean of Students. Individuals who fail to comply with an emergency removal order or any other interim measures may be subject to discipline. Sanctions may include, but are not limited to, expulsion or termination from the University.

The University may also place a non-student employee respondent on administrative leave at its discretion and/or in accordance with federal and state laws.

### **C. No-Contact Orders**

All no-contact orders will be mutual – i.e. neither party involved will be permitted to contact the other party -- unless the Title IX Coordinator determines, in their discretion and after a fact-specific analysis, that a non-mutual order is appropriate. The Title IX Coordinator will issue any no-contact order in writing, specifying the terms of the no-contact order, including the parties' responsibilities. The parties may request a review of the need for, and terms of, the no-contact order, including potential modification, and may submit evidence in support of their request. Any such requests should be submitted to the Title IX Coordinator. The Title IX Coordinator will notify the other party and conduct a prompt review in response to such request.

Violations of a no-contact order issued pursuant to this Policy are grounds for discipline including but not limited to expulsion or termination from the University.

## **VII. PROCESS A: TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCESS**

The Title IX Sexual Harassment Grievance Process (referred to as the “grievance process” or “Process A” within this section) only applies to qualifying allegations of Title IX sexual harassment as defined in Appendix B below. If a dismissal of a formal complaint occurs in Process A, the allegations may, if appropriate, be subsequently addressed via Process B, which is described below in Section VIII. Process B may also apply instead of Process A if the Title IX Coordinator determines that allegations of Title IX Sexual Harassment fall outside the jurisdiction of Process A.

Under Title IX, the University’s response to reports or formal complaints of sexual harassment must treat complainants and respondents equitably by offering supportive measures to a complainant, and by following a grievance process that complies with Title IX before the imposition of any disciplinary sanctions or other actions that are not supportive measures, against a respondent.

### **A. Reporting Title IX Sexual Harassment**

Any individual (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute Title IX sexual harassment) may report incidents of Title IX sexual harassment to the Title IX Coordinator at any time including during non-business hours. The University will promptly and equitably respond to all reports of Title IX sexual harassment made to the Title IX Coordinator. Reports of Title IX sexual harassment may be made using the following options:

- In person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator;
- Using the telephone number or email address, or by mail to the office address listed in this Policy for the Title IX Coordinator;
- Reporting online at: <http://hr.adelphi.edu/title-ix/report/>; or
- By any other means that results in the Title IX Coordinator receiving the person’s verbal or written report.

As indicated in the reporting sections above, responsible employees must report any incident of sexual misconduct, including Title IX sexual harassment, to the Title IX Coordinator. However, a third party’s report will not trigger a Process A investigation or hearing. The Process A grievance process only begins once the complainant files or the Title IX Coordinator signs a formal complaint.

Once the Title IX Coordinator receives notice of an incident of Title IX sexual harassment, the Title IX Coordinator will respond in a manner that is not deliberately indifferent and will conduct an initial assessment within five (5) to seven (7) business days. As part of the initial assessment:

- The Title IX Coordinator will determine whether the allegations fall under

Title IX sexual harassment and/or Process A. If the report does not fall within the scope of Process A, the Title IX Coordinator will then assess if Process B is applicable.

- If the allegations fall within the scope of Title IX sexual harassment and Process A, then the Title IX Coordinator will contact the complainant and provide them with a written explanation of their rights and options with respect to the report of Title IX sexual harassment. The Title IX Coordinator will also promptly make supportive measures available to the complainant.
- The Title IX Coordinator will discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, and inform the complainant of the availability of supportive measures regardless of whether a formal complaint is ever filed. At the time that supportive measures are offered, the Title IX Coordinator will inform the complainant, in writing, that they may file a formal complaint with the University either at that time or in the future, if they have not done so already, as well as the process for doing so.
- The Title IX Coordinator will work with the complainant to determine whether the complainant prefers only a supportive response or whether the complainant would like to proceed with a formal grievance process, if applicable, and, if Process A or Process B is applicable, whether there is an option for resolution through the informal grievance process.
- If the Complainant wishes to proceed with filing a formal complaint, if applicable, or the University believes it is otherwise necessary, the Title IX Coordinator will ascertain the name of the respondent, the date, location, and nature of the alleged Title IX sexual harassment, and, in a timely fashion, will notify the respondent of the allegations and any supportive measures available to the respondent. If a formal complaint is filed, the Title IX Coordinator will provide initial notice to the parties as described in this Policy. The full Process A grievance process will be followed before any discipline is imposed on the respondent.

The University seeks consent from complainants prior to initiating the Process A grievance process. A complainant's wish to not proceed will be honored unless the Title IX Coordinator determines in good faith that failure to investigate and adjudicate the allegations does not adequately mitigate a potential risk of harm to the complainant or ensure the safety of other members of the University community, or comply with state or federal law. Honoring a request not to proceed with the grievance process may limit the University's ability to meaningfully investigate and pursue disciplinary action against a respondent. Factors used to determine whether to honor a complainant's request include but are not limited to:

- Whether the respondent has a history of violent behavior, a pattern of misconduct or is a repeat offender;
- Whether the incident represents escalation in unlawful conduct on behalf of the respondent from previously noted behavior;
- The increased risk that the respondent will commit additional acts of violence;
- Whether the respondent used a weapon, violence, or force;

- Whether the complainant is a minor;
- Whether the University possesses other means to obtain evidence such as security footage; and
- Whether available information reveals a pattern of perpetration at a given location or by a particular group.

The Title IX Coordinator has ultimate discretion to determine whether the University will proceed with Process A when the complainant requests otherwise. After a good faith determination is made, the Title IX Coordinator may sign a formal complaint to initiate the Process A grievance process. If the Title IX Coordinator signs the formal complaint, they do not become the complainant. If the Title IX Coordinator determines that an investigation is required despite the complainant's wishes, the Title IX Coordinator shall notify the complainant or reporting individual and take immediate action as necessary to protect and assist them.

A complainant may withdraw a report or formal complaint from the University at any time. However, the University may still have an obligation to investigate and/or take action. The University may also be compelled to act on alleged employee conduct regardless of the complainant's wishes.

#### **B. Standard of Evidence, Presumption of Non-Responsibility, and Burdens of Proof and Gathering Evidence**

The standard for decisions under Process A is a preponderance of the evidence, meaning that it is more likely than not that Title IX sexual harassment occurred. There is a presumption that a respondent is not responsible for the alleged prohibited conduct. . The burden of proof as well as the burden to gather evidence sufficient to reach a determination regarding responsibility rests on the University and not the parties.

Members of the University community are expected to cooperate and be honest in their interactions with the University under this Policy. In this regard, community members are expected to acknowledge and respond to requests for information from University officials or their designees in a timely fashion, as well as be available for discussions with such individuals.

#### **C. Promptness, Notice and Timeframes**

The University will promptly resolve all formal complaints, including investigations, hearings, and informal resolutions and excluding appeal, within sixty (60) to ninety (90) business days of the filing of a formal complaint of Title IX sexual harassment with the Title IX Coordinator, unless the University has good cause for any temporary delays or limited extensions. Good cause may include, but is not limited to, absence of a party, advisor, or witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

The University will provide clear written notice to the parties before each interview or other meeting they are invited or expected to attend, including the date, time, location, participants, and purpose of the investigative interview, hearing, or meeting, whose participation is invited or expected, including the complainant and respondent. Through the notice, the University will provide sufficient time for the party to prepare to participate.

#### **D. Advisor of Choice**

The parties may have an advisor present during the course of the formal and/or informal Process A process, including the opportunity to be accompanied to any related meeting, interview, or hearing by the advisor of their choice who may advise and assist the parties. A party's advisor of choice may be, but is not required to be, an attorney. Each party is permitted one advisor. If a party does not have an advisor present for a Process A hearing, Adelphi will appoint an advisor of Adelphi's choice, free of charge, to conduct cross-examination on behalf of that party.

Throughout the process, the role of the advisor is narrow: they may attend and help the Party prepare for all proceedings, such as meetings, interviews, and hearings, that the Party is entitled to attend, but the Parties themselves must ask and answer any questions other than asking cross-examination questions during a Process A hearing; those questions will be asked by an Advisor because Parties are not permitted to personally do so. Except for cross-examination during a hearing, as described below, advisors cannot actively participate or speak on behalf of the parties or act as a proxy for any party. However, as reasonably needed, they may confer privately with the Party during the proceedings. Accommodations, including scheduling of the process, generally will not be made for any advisors if they unduly delay the process, as determined by the Title IX Coordinator. The University reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the sole discretion of the Title IX Coordinator.

#### **E. Formal Complaints**

Reports of Title IX sexual harassment may be made using any of the options set forth above. A formal complaint, as defined herein, may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, using the contact information listed in this Policy. The University will promptly investigate formal complaints and follow a grievance process that complies with 34 C.F.R. § 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

The complainant must be participating in or attempting to participate in the University's education program or activity at the time a formal complaint is filed alleging Title IX sexual harassment against a respondent and requesting that the

University investigate the allegations. If the complainant files the formal complaint, the formal complaint must contain the complainant's physical or digital signature or provide an indication that the complainant is the individual filing the formal complaint. As noted above, the Title IX Coordinator may also sign a formal complaint. When the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the formal complaint.

## **F. Dismissal and Consolidation of Formal Complaints**

In the event of the dismissal of a formal complaint, the Title IX Coordinator will promptly and simultaneously send the parties written notice of the dismissal and the reasons for such dismissal. Both parties may appeal the decision to dismiss a formal complaint or any allegations therein under the procedures for appeal below.

### **1. Mandatory Dismissals**

The University *must* dismiss a formal complaint or any allegations therein, if, at any time during the investigation or hearing, it is determined that:

- (1) the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in 34 C.F.R. § 106.30, even if proved;
- (2) the conduct did not occur in the University's education program or activity;
- (3) the conduct did not occur against a person in the United States; or
- (4) at the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the University.

Such a dismissal does not preclude the University from proceeding under Process B, another provision of the University's *Code of Conduct* and the related policies, the Employee Handbook, or any other Adelphi policies. The Title IX Coordinator will determine whether a formal complaint must be dismissed in accordance with this section.

### **2. Discretionary Dismissals**

The University *may*, in its discretion, dismiss a formal complaint or any allegations therein, if at any time during the investigation or hearing:

- (1) the complainant notifies the Title IX Coordinator, in writing, that they would like to withdraw the formal complaint or any allegations therein;
- (2) the respondent is no longer enrolled in or employed by the University; or
- (3) specific circumstances prevent the University from gathering sufficient evidence to reach a determination as to the formal complaint or allegations therein.

### **3. Consolidation**

The University may consolidate formal complaints regarding allegations of Title IX

sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of Title IX sexual harassment arise out of the same facts or circumstances.

### **G. Initial Notice of Allegations**

Upon receipt of a formal complaint of Title IX sexual harassment, the Title IX Coordinator will provide written notice to known parties. This notice will include:

- Notice of the formal grievance process, including any informal grievance process that may be available;
- Notice of the allegations of sexual harassment potentially constituting Title IX sexual harassment, as well as sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
  - Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX sexual harassment under 34 C.F.R. § 106.30, and the date, location, and factual allegations of the alleged incident, if known;
- The specific section(s) of this Policy alleged to have been violated;
- A statement about the University's prohibition on retaliation;
- A description of the range of possible disciplinary sanctions and remedies or a list of the possible disciplinary sanctions and remedies that the University may implement following any determination of responsibility;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the formal grievance process;
- A statement that informs the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney;
- A statement informing the parties that they may inspect and review the evidence collected in an investigation; and
- A statement informing the parties that this Policy prohibits knowingly making false statements or knowingly submitting false information during the formal grievance process.

During the course of the investigation, the University may investigate allegations about the parties that are not included in the initial written notice of allegations. If this is the case, the University will provide notice of the additional allegations to the known parties.

### **H. Investigation of Formal Complaints**

The Title IX Coordinator will appoint a trained investigator(s) to conduct the investigation. The Title IX Coordinator may assign an investigator from the Anti-Discrimination Panel or an investigator external to the University. A party wishing to challenge the selection of the investigator must notify the Title IX Coordinator,

in writing, within three (3) business days of receipt of the name and contact information of the investigator, stating the specific reason(s) for the party's objection. The Title IX Coordinator will determine whether the challenge has merit, and reserves discretion to make changes to the individual assigned as the investigator(s) at any time.

Formal complaints of Title IX sexual harassment will be investigated promptly, thoroughly, fairly, and impartially by the investigator, and normally within thirty (30) business days of the filing of a formal complaint with the Title IX coordinator.

Investigations generally entail interviews with relevant parties and witnesses and follow up interviews, if necessary. The parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The parties will have the ability to discuss the allegations under investigation and gather and present relevant evidence. The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint.

Unless the investigator obtains a party's voluntary, written consent, the investigator will not access, consider, disclose or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting or assisting in such capacity, and which are made or maintained in the connection with the provision of treatment to the party. In addition, the University will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognizable privilege, unless the person holding such privilege has waived the privilege.

At the conclusion of the investigation, the investigator will prepare a case file, which will include all collected evidence that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination of responsibility and any inculpatory or exculpatory evidence, whether obtained from a party or other source as part of the investigation. The investigator will also prepare an investigative report that fairly summarizes the investigation and all relevant evidence.

Prior to completion of the investigative report, the investigator will send to each party and party's advisor, if any, the case file, subject to review in an electronic or hard copy. The parties will have ten (10) business days to submit a written response. The investigator will consider the written responses before completing the investigative report. The investigator will finalize the investigative report that summarizes relevant evidence and, at least ten (10) business days prior to the hearing, send the investigative report to each party and the party's advisor, if any, in an electronic format or hard copy, for their review and written response. The parties and their advisors, if any, will be provided with the other party's written



response to the investigative report, if any, in electronic format or hard copy prior to the hearing.

## **I. The Hearing**

After the investigative report is shared with the parties, the Title IX Coordinator will assign the matter to be heard by the Hearing Panel, which will be comprised of members chosen from the Anti-Discrimination Panel. The Title IX Coordinator may instead determine that a Hearing Panel external to the University will be assigned. The assigned Hearing Panel will not participate in the process until this stage of the proceeding.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation, which is when the final investigation report is transmitted to the parties. The Title IX Coordinator will provide written notice at least five (5) business days before the hearing date to the parties. The written notice will include at a minimum:

- The date, time, and place of the hearing.
- The name and contact information of the Hearing Panel.
- The participants in the hearing (including but not limited to the parties, witnesses, etc.)
- Any technology expected to be utilized at the hearing.
- The purpose of the hearing.

A party wishing to challenge the participation of an assigned member of the Hearing Panel must notify the Title IX Coordinator, in writing, within three (3) business days of receipt of the notice of hearing, stating the specific reason(s) for the party's objection. The Title IX Coordinator will determine whether the challenge has merit, and reserves discretion to make changes to the Hearing Panel at any time.

The hearing will take place on the date and time specified in the notice of hearing. If circumstances arise that require a change in the hearing date or time, the University will provide the parties with written notice explaining the reason for such change.

The Hearing Panel may consider all evidence that they determine is relevant. The Hearing Panel is responsible for maintaining an orderly, fair, and respectful hearing and will have broad authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual, regardless of whether that individual is a party, witness, or advisor. During the hearing, the parties may: (1) speak on their own behalf, including providing an opening and closing statement; (2) be accompanied by an advisor, who may be, but is not required to be, an attorney; (3) have an advisor cross-examine the other party and

any witnesses; and (4) the opportunity to attend the entire hearing or proceeding, except for the deliberation phase. During any hearing, the University will make all directly related evidence available for the parties' inspection and review to give each party an equal opportunity to refer to the evidence during the hearing.

Live hearings may be conducted with all parties physically present in the same geographic location, or, in the discretion of the University, any or all parties, witnesses, and other participants may appear at the live hearing virtually via technology enabling participants to simultaneously see and hear each other. The parties may request for the live hearing to occur in this virtual manner.

## **J. Cross-Examination**

During the live hearing, cross-examination will be conducted directly, orally, and in real time by the party's advisor of choice. Cross-examination will never be conducted by a party and at no point shall the parties be permitted to question each other. If a party does not have an advisor present at the live hearing, the University will provide to that party, without fee or charge, an advisor of the University's choice, who may be, but is not required to be an attorney, to conduct cross-examination on behalf of that party.

At the live hearing, the Hearing Panel will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions challenging the credibility of the opposing party or witnesses.

Before a complainant, respondent, or witness answers a cross-examination or other question, the Hearing Panel shall determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Hearing Panel may decline to allow any question and is not required to give a lengthy or complicated explanation; it is sufficient, for example, for a Hearing Panel to explain that a question is irrelevant because the question calls for prior sexual behavior information without meeting one of the two exceptions outlined below, or because the question asks about a detail that is not probative of any material fact concerning the allegations. The Hearing Panel may also decline to allow any question that is duplicative of information already gathered or asked, irrelevant, or otherwise determined to be unnecessary or inappropriate.

Both parties have the right to exclude their own mental health diagnosis and/or treatment from admittance in the hearing. Both parties also have the right to exclude their own prior sexual history with persons other than the other party in the judicial or conduct process, subject to the exceptions in 34 CFR 106.45(6)(i), which states that questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence about the complainant's prior sexual behavior are (1) offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or (2) if the questions and evidence concern specific incidents of the complainant's prior

sexual behavior with respect to the respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the Hearing Panel cannot not rely on any statement of that party or witness in reaching a determination of responsibility. This includes statements made in the complaint or during the investigation. The Hearing Panel cannot not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. An audio or audiovisual recording/transcript of any live hearing will be created and made available to the parties for inspection and review.

## **K. Impact Statements**

The parties will be offered an opportunity to provide impact statements to the Hearing Panel while the Hearing Panel is deliberating on appropriate sanctions. The impact statement must be provided to the Title IX Coordinator. Parties will also receive a copy of submitted impact statements. The Title IX Coordinator will provide the impact statements to the Hearing Panel only once the Hearing Panel is deliberating on appropriate sanctions. Impact Statements cannot and will not be considered by the Hearing Panel when reaching a determination of responsibility.

### **1. Determinations Regarding Responsibility, Disciplinary Sanctions and Remedies**

The Hearing Panel will evaluate the allegations under a "preponderance of the evidence" standard. The respondent will only be found responsible for the alleged Title IX sexual harassment if the Hearing Panel concludes, based upon careful review of all information presented, that such Title IX sexual harassment more likely than not occurred in violation of the Policy. The Hearing Panel will determine any disciplinary sanctions imposed on the respondent and any remedies to be provided to the complainant, and the Title IX Coordinator will enforce and implement the same.

### **2. Written Notice of Determination**

Within ten (10) business days from the hearing, the Hearing Panel will simultaneously issue the parties a written notice of the determination regarding responsibility. The written notice of determination will contain the following information:

- Identification of the conduct constituting Title IX sexual harassment under this Policy as defined in 34 C.F.R. § 106.30;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including:
  - A determination regarding responsibility;
  - Any disciplinary sanctions the University will impose on the respondent; and
  - Whether remedies will be provided to the complainant;
- The University's procedures and permissible bases for the parties to appeal; and
- When the determination becomes final.

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

### **3. Employee Respondent Disciplinary Considerations**

The University's policies or contracts may require the University to use additional processes before taking certain employment-related actions with respect to faculty and certain other employees. Where a person covered by such a policy or contract has allegedly engaged in conduct prohibited by this Policy, the investigation and grievance process will proceed in accordance with the procedures set forth herein, except that the Hearing Panel will not impose any discipline that would require the use of additional processes. Instead, the Hearing Panel will impose all appropriate discipline that does not require the use of additional processes and then refer the matter, if appropriate, for action under the additional process. The University's disciplinary action will be considered complete with the Hearing Panel's imposition of discipline and referral, subject to any appeals. For information, please contact the Title IX Coordinator.

### **4. Disciplinary Sanctions and Remedies**

If the Hearing Panel finds the respondent responsible for violating this Policy, it may impose disciplinary sanctions on the respondent and/or provide remedies to the complainant. Alternatively, disciplinary sanctions and remedies may be imposed as a result of an informal resolution. Remedies, sanctions, or other actions that are not supportive measures cannot be imposed on the respondent prior to a finding of responsibility through either the completion of a formal grievance process or informal resolution. Adelphi must wait to act on the determination regarding responsibility, including implementing disciplinary sanctions or remedies, until the determination becomes final. The determination regarding responsibility becomes final either on the date that Adelphi provides the Parties with the written determination of the result of the 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.

Remedies are designed to restore or preserve equal access to the University's education program or activity and may be disciplinary, punitive, and/or impose a burden on the respondent. Supportive remedies, which can include the supportive measures discussed in Section VI above, range from services such as counseling or medical services to withdrawals or leaves of absence; punitive remedies range from a warning up to and including expulsion/termination or revocation of degree.

The range of disciplinary sanctions that the Hearing Panel may consider for any individual found responsible for Title IX sexual harassment span from a warning up to and including expulsion/termination or revocation of a student's degree. The sanctions imposed will depend, in part, on the severity of the conduct and the number of violations that occurred. The Hearing Panel may impose any of the following disciplinary sanctions that are determined to be fair and proportionate to the violation of the Policy under the grievance process:

- A reprimand or written warning;
- Changing the respondent's work or academic schedule;
- Disciplinary probation;
- Revocation of honors, awards, or a degree;
- Community service and/or training;
- Restricting the respondent's access to University's facilities or activities;
- Changing the respondent's work or housing assignment;
- Dismissal from or restricting or reassignment of University employment;
- Removing the respondent from student housing;
- Suspension (limited time or indefinite);
- Expulsion or termination;
- Forfeiture of a benefit, honor, leadership position, or other privilege enjoyed by virtue of the person's membership as adjunct faculty, staff, or administration;
- Demotion or forfeiture of promotion or salary increase;
- Reassignment of University employment;
- Respondents who are non-student employees may also be placed on administrative leave during the pendency of a formal grievance process or resolution process
- Any other actions deemed appropriate.

In determining appropriate disciplinary sanctions, the Hearing Panel may consider any record of past violations of University policies, including the nature and severity of such past violation(s), as well as previous disciplinary action of any kind involving the respondent. This information is only considered at the sanction stage of the process. As part of the deliberations, the Hearing Panel will also consider whether the respondent poses a continuing risk to the complainant and/or the University

community.

## **L. Informal Process A Resolution Process**

At any time prior to reaching a determination of responsibility through the formal Process A process, the University may offer the parties the option to resolve the formal complaint through the informal Process A resolution process (referred to herein as the “informal process”) without completing a full investigation and hearing. The University will only offer the informal process if it determines, in its sole discretion, that it may be appropriate. The University must also obtain the parties’ voluntary, written consent to the informal process. Unless there is good cause for temporary delay(s) or limited extension(s), the University will promptly resolve the informal process within thirty (30) business days of receipt of the parties’ voluntary, written consent to the informal process.

The informal process cannot be used to resolve an allegation of Title IX sexual harassment if: (1) a formal complaint has not been filed; or (2) the respondent is a University employee and the complainant is a student.

If a formal complaint is eligible for informal resolution, the informal process may begin at any time prior to a determination regarding responsibility being reached regarding the formal complaint if the University:

- (i) Provides to the parties a written notice disclosing:
  - a. the allegations;
  - b. the requirements of the informal process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal process and resume the formal Process A grievance process with respect to the formal complaint; and
  - c. any consequences resulting from participating in the informal process, including the records that will be maintained or could be shared; and
- (ii) Obtains the parties’ voluntary, written consent to the informal process.

The Title IX Coordinator will serve as the facilitator of the informal process and may elect to be assisted by another member of the Anti-Discrimination Panel or an outside expert. The informal process is designed to efficiently obtain a mutually acceptable solution, which may include an acceptance of responsibility and disciplinary sanctions by the Respondent, without the necessity for conducting further investigation or hearing. The informal process may result in the imposition of protective actions agreed upon by the parties or (with or without such agreement) based on information derived from the informal process taken together with any other relevant information known to the University at the time of the

informal process.

The informal process does not necessarily require the parties to meet together. An informal process may involve a University employee and/or a third-party facilitator, to be selected by the University. If the parties can reach a mutually satisfactory resolution, the matter will be considered final without involving a full formal investigation and hearing determination. At that point, the agreed upon sanctions will be promptly implemented.

Participation in the informal process is voluntary. The University will not compel the parties to engage in the informal process and will allow the parties to withdraw from the informal process at any time and resume the formal grievance process with respect to the formal complaint. There is no appeal option after the parties reach a resolution through the informal process.

### **M. Appeals**

Either party may appeal a determination regarding responsibility reached under the grievance process, a dismissal of a formal complaint, or any allegations therein, on any of the following bases:

- (1) a procedural irregularity that affected the outcome of the matter;
- (2) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; or
- (3) the Title IX Coordinator, investigator, and/or Hearing Panel had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the formal complaint.

Within five (5) business days of the delivery of the written determination of responsibility or from dismissal of the formal complaint or any allegations therein, the respondent and/or complainant may file an appeal with the Title IX Coordinator. The appeal must contain the party's grounds for the appeal indicating why the party requesting the appeal believes the determination of responsibility or dismissal of the formal complaint or any allegations therein was inappropriate. The appealing party may also submit a written statement challenging the outcome. The Title IX Coordinator will promptly notify the non-appealing party about the appeal in writing and will apply appeal procedures equally to the parties. Within five (5) business days from the notification of the appeal, the non-appealing party may submit a written statement in support of the outcome.

A panel composed of three members of the Anti-Discrimination Panel, the "Appeals Panel," will review the appeal and decide the merits of the appeal. The Appeals Panel shall not include the Title IX Coordinator, members of the Hearing Panel, or investigator. The Appeals Panel shall be fair and impartial and will not

include individuals with a conflict of interest.

The Appeals Panel will simultaneously issue a written decision to the parties describing the result of the appeal and the rationale for the result within ten (10) business days of receipt of the complete record, including the written submissions of the parties. The decision of the Appeals Panel regarding the appeal is final.

#### **VIII. PROCESS B: PROCESS FOR RESOLUTION OF ALLEGATIONS OF DISCRIMINATION, HARASSMENT (INCLUDING SEXUAL MISCONDUCT), AND/OR RETALIATION NOT INCLUDING TITLE IX SEXUAL HARASSMENT**

The resolution process set forth in this section ("Process B") applies to all allegations of violations of this Policy except for allegations of Title IX sexual harassment, which are addressed under the Title IX Sexual Harassment Grievance Process (Process A) set forth above.

The reporting process for Process B is described in Section V above. Once a report is received, it will be reviewed by the Title IX Coordinator. The Title IX Coordinator will meet/discuss with the Complainant how a complaint is made. Complainants are also given written notification of their rights and options with respect to the report.

Prior to filing a complaint regarding an incident and commencing a Process B investigation of discrimination, harassment (including sexual misconduct) and/or retaliation, the consent of the complainant, if known, shall be requested. If the complainant is under the age of eighteen (18) years and does not attend a post-secondary institution, the parents or guardians of the complainant will be asked to provide consent for the investigation.

A complainant's decline to consent to proceed with a Process B investigation may be honored, unless the Title IX Coordinator determines in good faith that failure to investigate and adjudicate the allegations does not adequately mitigate a potential risk of harm to the complainant or ensure the safety of other members of the University community, or comply with state or federal law. Honoring such a request may limit the University's ability to meaningfully investigate and pursue disciplinary action against a respondent. Factors used to determine whether to honor a complainant's request not to proceed include but are not limited to:

- Whether the respondent has a history of violent behavior, a pattern of misconduct or is a repeat offender;
- Whether the incident represent escalation in unlawful conduct on behalf of the respondent from previously noted behavior;
- The increased risk that the respondent will commit additional acts of violence;
- Whether the respondent used a weapon, violence, or force;
- Whether the complainant is a minor;



- Whether the University possesses other means to obtain evidence such as security footage; and
- Whether available information reveals a pattern of perpetration at a given location or by a particular group.

The Title IX Coordinator has ultimate discretion to determine whether the University will proceed when the complainant requests otherwise. The Title IX Coordinator may initiate a Process B grievance process upon completion of a good faith determination. In such a case, the Title IX Coordinator will file the complaint, but does not become the complainant.

A complainant may withdraw a report or complaint from the University at any time. However, the University may still have an obligation to investigate and/or take action. The University may also be compelled to act on alleged employee conduct regardless of the complainant's wishes.

#### **A. PROCESS B INVESTIGATIONS**

Once a complaint has been filed, a trained, impartial investigator(s) will be assigned to conduct an immediate preliminary investigation to determine if Process B is applicable. The investigator(s) will be assigned according to Section VIII.A based upon who the accused individual might be. During the preliminary investigation, the investigator(s) will consider interim action, supportive measures for the parties, or other necessary remedial short-term actions. If it is determined by the investigator that this Policy may have been violated and Process B is applicable, the University will initiate a prompt, thorough, fair, and impartial investigation, including effective remedies designed to end the discrimination, harassment, or retaliation, prevent recurrence and address the effects on the victim and the community.

To ensure a prompt and thorough investigation of a complaint, the complainant should provide as much of the following information as possible to the investigator and/or Title IX Coordinator:

- The name, department, and position of the person or persons allegedly engaging in discrimination, harassment (including sexual misconduct), and/or retaliation.
- A description of the incident(s) including the date, location and the identity of any witnesses.
- If the complainant is an employee, the alleged effect of the incident on the complainant's position, salary, benefits, promotional opportunities, or other terms or conditions of employment.
- If the complainant is a student, the alleged effect of the incident on the

complainant's academic standing, housing environment, or social status or other terms or conditions of the educational environment.

- The names of other persons who may have witnessed or been subject to the same or similar offenses.
- Any other information the complainant believes relevant to the discrimination, harassment (including sexual misconduct) and/or retaliation.

The investigation will be conducted within a reasonable amount of time and will normally be completed within 60 days; the entire Process B grievance process excluding appeals, barring good cause for delay(s) or extension(s), will be completed within sixty (60) to ninety (90) business days. However, the investigation and resolution of a complaint may vary depending on the complexity of the investigation and/or the extent of the alleged harassment or discrimination. The investigation shall be conducted in a manner that is adequate, reliable, prompt, fair, and impartial and may include any of the following:

- interviews of the complainant and the accused,
- interviews of any witnesses,
- gathering of any other relevant information, including but not limited to, past complaints of a similar nature raised against either party.

Before an interview of a member of a bargaining unit who has been accused of violating this Policy is conducted, the member will be advised that they are entitled to have a Union representative accompany them to the interview.

The investigator(s) will make every effort to keep the complainant timely informed about the status of the investigation.

## **1. Investigation of Complaints Accusing Employees**

The Title IX Coordinator/Director of Equity and Compliance will investigate complaints of discrimination, harassment (including sexual misconduct) and/or retaliation accusing employees. In certain cases, such as cases of potential conflict or when additional assistance is needed, the Title IX Coordinator may assign (an) investigator(s) from the Anti-Discrimination Panel or a third-party investigator to investigate and resolve complaints of discrimination, harassment and/or retaliation accusing employees.

Any employee who, after appropriate investigation, has been found to have violated this Policy, will be subject to disciplinary action, which may include but is not limited to reprimand, suspension from service for a stated period (with or without pay), termination of employment, or such other responsive actions deemed

appropriate for the violation.

A recommendation may be solicited from the investigator and the Title IX Coordinator regarding disciplinary action against faculty members accused of violations of this Policy and will be forwarded to the Provost, who will initiate disciplinary proceedings in accordance with Article XIX of the Collective Bargaining Agreement between the University and the American Association of University Professors (AAUP). After completion of the proceedings, the Provost will issue an outcome letter to the faculty member with a copy to the Title IX Coordinator and the Chief Human Resources Officer for their files.

## **2. Investigation of Complaints Accusing Students**

The Title IX Coordinator/Director of Equity and Compliance will complete a preliminary investigation of reports accusing students to determine whether the alleged conduct would fall under Process B. If the Title IX Coordinator determines that Process B is applicable, the Title IX Coordinator will inform the Office of Student Conduct and Community Standards for further action consistent with the policy and the Code of Conduct. The investigation and adjudication of the matter will then proceed via the procedure outlined in the *Code of Conduct*.

In the event that provisions of the *Code of Conduct* are inconsistent with legal requirements, the legal requirements will prevail. See the *Code of Conduct* at <http://operations.adelphi.edu/policies/code-of-conduct/>. Any student who, after an appropriate investigation and adjudication, has been found to be in violation of this Policy, will be subject to disciplinary action, which may range from a warning to expulsion, depending on the severity of the misconduct, the student's cumulative conduct record, institutional precedent, and other mitigating or aggravating circumstances.

## **3. Investigation of Complaints Accusing Third Parties and Complaints of Third Parties that Occur on any Campus, Campus Center or Site**

Normally, the Title IX Coordinator will investigate reports/complaints accusing non-students and non-employees of incidents related to the University's programs and activities and programs involving third parties that take place on any University campus or Campus Center. Examples include incidents involving visitors to the University, camps conducted by third parties on any University Campus or Campus Center or site, vendors, and individuals at a field placement or internship. Any third-party who, after appropriate investigation, has been found to have violated this Policy, will be subject to restriction from University property, cancellation of vendor contracts, discontinued use of placement sites, or such other responsive actions deemed appropriate for the violation. Referrals may also be made to law enforcement, as appropriate.

## **B. PROCESS B DISPUTE RESOLUTION OPTIONS**

If the complaint is for discrimination, harassment, and/or retaliation, then either an informal or formal resolution process may be used. However, a complaint involving sexual assault or physical violence of any kind cannot be resolved through the informal resolution process (mediation).

In either process, the evidence to be considered may include witness statements, information from the informal resolution process if one was conducted, other relevant information, and consideration of known patterns and previous history evidence. Each party will be apprised that they may be accompanied by an advisor or union representative if applicable.

These dispute resolution options are not applicable to complaints accusing students, as those complaints will be handled pursuant to the process outlined in the *Code of Conduct*.

### **1. Right to an Advisor**

While Process A *requires* an advisor during the hearing in order to conduct cross-examination on behalf of a party, Process B does not have the same requirement. During Process B, no University employee, student, or third party may be accompanied by an advisor, who may or may not be an attorney, unless:

- a. They are a complainant or respondent in a matter referred to the University Hearing Board pursuant to the *Code of Conduct*; or
- b. Criminal charges arising from the same incident have been filed; or
- c. The case involves allegations of sexual misconduct (with or by a student only). Both the complainant and the accused have the right to be accompanied by an advisor of their choice (who may or may not be an attorney) to any related meeting or institutional disciplinary proceedings.

In such cases the role of the attorney or advisor of choice will be limited to private consultation with the complainant or respondent and the advisor of choice may not actively participate in the proceedings or meetings in any way. The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor and to take appropriate steps to ensure compliance with this Policy.

### **2. Informal Resolution Process**

Certain complaints of discrimination, harassment (including sexual misconduct) and/or retaliation can be resolved through informal resolution procedures. These informal procedures may include, but not be limited to, an informal investigation, mediation, counseling, and/or any other means of resolving a complaint other than the formal Process B resolution process. The use of the informal resolution process

is voluntary and must be agreed to by the complainant, the accused, and the investigator(s). Either the complainant or the accused may end the informal process at any time and choose to pursue the formal Process B resolution process, or the complainant can choose not to pursue the matter further.

The assigned investigator(s) will meet with the complainant to discuss the complaint and the informal process. The investigator(s) will explain to the complainant the nature of the informal resolution process and, if acceptable to the complainant, the investigator(s), whenever possible, appropriate and safe, will attempt to resolve the complaint through an informal resolution process.

The complainant will not be required to meet with the accused individual face to face. The informal resolution process attempts to resolve the issue with the complainant and the accused individual by mutual agreement, which will be reduced to writing. Once a mutually agreed upon resolution is suggested it will be reviewed, accepted, or modified by the Chief Human Resources Officer in consultation with the Title IX Coordinator.

Once the recommendation for the informal resolution is approved, written notification will promptly be sent by either the Provost, the Chief Human Resources Officer, the Title IX Coordinator, or the Office of Student Conduct and Community Standards, as appropriate, to the parties. The notification will specify the findings and the terms of the approved resolution. If either party is dissatisfied with the approved resolution, either may make a request within seven (7) business days of issuance of the written notification to proceed via the formal Process B process.

In cases involving faculty members, all mutually agreed upon resolutions are subject to the approval of the union (unless the faculty member has declined their right to union representation). Recommendations for disciplinary action against faculty members accused of violations of this policy will be forwarded to the Provost who will initiate disciplinary proceedings in accordance with Article XIX of the Collective Bargaining Agreement between the University and the AAUP. After the completion of the proceedings, the Provost will issue an outcome letter to the faculty member, with a copy to the Title IX Coordinator and the Chief Human Resources Officer for their files.

### **3. Formal Resolution Process**

If the complaint cannot be resolved informally, or if the action complained of is not appropriate for resolution through the informal resolution process, the investigation will continue to the Process B formal resolution process.

At the end of the investigation, an investigative report containing a determination regarding responsibility will be prepared by the investigator and/or the Title IX Coordinator. The determination will then be submitted to the Chief Human Resources Officer, Provost, the employee's supervisor, and/or the Assistant Vice

President and Dean of Student Affairs, as appropriate. If the determination is one of responsibility, the appropriate aforementioned individual will decide which sanctions, if any, are to be imposed on the respondent. A copy of the investigative report can be provided upon request to those responsible for determining sanctions to help determine sanctions.

In sexual misconduct cases, the parties will be offered an opportunity to provide impact statements to the presiding official(s) while they are deliberating on appropriate sanctions. The impact statement must be provided to the Title IX Coordinator. Parties will also receive a copy of submitted impact statements. The Title IX Coordinator will provide the impact statements to the presiding official(s) only once they are deliberating on appropriate sanctions. Impact Statements cannot and will not be considered by the presiding official(s) when reaching a determination of responsibility.

Sanctions can range from a warning up to and including expulsion/termination or revocation of a student's degree. Sanctions and remedies are discussed in more detail in Section VII.J.3.

The final outcome will be sent simultaneously and in writing to the complainant and to the respondent within ten (10) business days of the conclusion of the formal resolution process, except as outlined in the paragraph below. This written determination will include the findings of fact, decision, and sanction, as well as the rationale for the decision and sanction. While the outcome of the complaint will be provided in writing to both the complainant and the respondent, certain disciplinary action taken against the respondent as a result of the investigation may be kept confidential from the complainant as required by law. The parties will also be simultaneously informed in writing of the procedures to appeal the determination of any change to the results that occurs prior to the time that such results become final, and when such results become final.

Recommendations for disciplinary action against faculty members accused of violations of this Policy will be forwarded to the Provost who will initiate disciplinary proceedings in accordance with Article XIX of the Collective Bargaining Agreement between the University and the AAUP. After the completion of the proceedings, the Provost will issue an outcome letter to the faculty member with a copy to the Title IX Coordinator and the Chief Human Resources Officer for their files.

### **C. Appeals Process**

An appeal of a complaint accusing a student is governed by the *Code of Conduct*: <http://operations.adelphi.edu/policies/code-of-conduct/>. For all other complaints, the following appeals process will apply.

Either the complainant or the respondent may request an appeal of the findings of the University regarding the formal resolution process. A request for such an

appeal that is associated with a complaint accusing employees and others must be submitted in writing to the Title IX Coordinator within three (3) business days of the receipt of the original outcome. If no request is made in that time, then the decision is rendered final. An appeal of the decision may be considered if one of the following grounds is present:

- a. A procedural error has occurred that significantly impacted the outcome (e.g. substantiated bias, material deviation from established procedures, etc.). This error must be described in the letter requesting an appeal. Minor or harmless deviations from the process will not invalidate the proceedings;
- b. The discovery of significant and relevant new information that was unavailable during the original process, which has become available and could impact the outcome. A summary of this new evidence, why it was previously unavailable, and its potential impact must be included in the request for an appeal;
- c. The sanction imposed is clearly not appropriate for the violation.

Once a request for an appeal, as defined above, is received, a decision will be rendered on eligibility for appeal usually within ten (10) business days. The decision regarding the eligibility for appeal will be made by the Chief Human Resources Officer for appeals filed by employees, by the Provost for appeals filed by faculty, and by the Vice President for Student Affairs for appeals filed by students.

If none of the grounds for appeal stated above are met, the request for an appeal will be denied with no further appeal through this Policy and the parties will be simultaneously so informed.

If appropriate grounds for appeal are present, these will be presented to an appellate body ("Appeal Panel") composed of three members of the Anti-Discrimination Panel. Regardless of whether all parties request an appeal, the complainant and accused individual will be made aware of, and permitted to participate in, the appeal as it will be the only appeal conducted and its conclusion will be final. Where the complainant and accused individual each request to appeal on different grounds, those grounds will be consolidated into one appeal process.

An appeal proceeding will include all parties to the complaint and all related documents. The Appeal Panel will be solely responsible for determining who should participate, what information is needed, and how proceedings will be structured.

If an appeal is heard, then the final outcome of the appeal will be communicated simultaneously to the parties usually within five (5) business days following deliberations. If an appeal based on "significant and relevant new information that

was unavailable during the original process, which has become available and could impact the outcome on the ground of new evidence,” is granted, the matter may be referred to the original investigator(s) for reconsideration.

Because the scope of the appeal proceedings is limited to the allowable grounds, full re-hearings are exceptionally rare. A successful appeal permits the original investigator(s) to consider ONLY the matter resulting in a remand, such as the new evidence, or to address ONLY those other grounds that were determined to be present and significant.

#### **D. Standard of Proof for Resolution Processes**

The standard of proof for all determinations and findings regarding the provisions of this Policy shall be the preponderance of the evidence. The preponderance of the evidence means such evidence that, when considered and compared with that opposed to it, is more convincing, creating the belief that what is sought to be shown is more likely than not to have occurred.

### **IX. DESIGNATION OF AUTHORITY**

The University may, at its discretion, designate another trained and experienced person(s) to act in the place of the investigator, adjudicator, decision-maker, and/or facilitator in this Policy. If there is such a designation, the parties involved will be informed.

### **X. THE ANTI-DISCRIMINATION, HARASSMENT (INCLUDING SEXUAL MISCONDUCT), AND RETALIATION PANEL (“ANTI-DISCRIMINATION PANEL”)**

The Anti-Discrimination Panel, which includes the Title IX Coordinator, is a diverse group of individuals composed of Adelphi employees who have been selected and trained on issues related to this Policy. A current list of the Anti-Discrimination Panel members will be maintained and made available at: <https://hr.adelphi.edu/title-ix/university-policy/section-xi/>.

Among other responsibilities, each individual of the Anti-Discrimination Panel may assume the following roles:

- Meet with individuals who allege that they have been the victim of discrimination, harassment (including sexual misconduct), and retaliation;
- Discuss appropriate next steps;
- Refer the complainant to the appropriate resources for assistance;



- Serve as an investigator;
- Serve on an Appeal Panel only if he or she has not been previously involved as an investigator in the case.

The Title IX Coordinator will serve as the Coordinator of the Anti-Discrimination Panel and will assure that Panel members do not serve in conflicting roles in the same complaint. In cases of allegations involving the Title IX Coordinator, the Coordinator will be recused from the Panel, and the Director of Employment, Employee and Labor Relations will fill the Title IX Coordinator's role until the complaint is resolved. Any panelist subject to accusations under this Policy will also be recused during the resolution of the complaint. The Title IX Coordinator will assure that each member has been appropriately trained before assuming active membership on the panel, and update and disseminate the Policy.

The following are the names and contact information of the Anti-Discrimination Panel members to whom complaints or concerns may be directed. This list is subject to change:

Fabian Burrell	Coordinator for Programing & Community Engagement, African, Black & Caribbean Studies, Alumnae Hall, <a href="mailto:fburrell@adelphi.edu">fburrell@adelphi.edu</a> , 877-4978
Joseph De Gearo	Dean of Students and Strategic Initiatives, Nexus Building, Room 302, <a href="mailto:degearo@adelphi.edu">degearo@adelphi.edu</a> , 877-3654
Lucinda Donnelly	Chief Human Resources Officer, Levermore Hall, Room 203, <a href="mailto:cdonnelly@adelphi.edu">cdonnelly@adelphi.edu</a> , 877-3268
Renaire Frierson	Title IX Coordinator, Director of Equity & Compliance, Levermore Hall, Room 207, <a href="mailto:rfrierson@adelphi.edu">rfrierson@adelphi.edu</a> , 877-4819
Margaret Gray	Associate Professor, Political Science Department, Blodgett Hall, Room 202D, <a href="mailto:gray5@adelphi.edu">gray5@adelphi.edu</a> , 877-4589
Natalie Johnson	Title IX Investigator, Levermore Hall, Room 207, <a href="mailto:njohnson@adelphi.edu">njohnson@adelphi.edu</a> , 877-8694
Anthony Maldonado	Human Resources Partner, Levermore Hall, Room 203, <a href="mailto:amaldonado@adelphi.edu">amaldonado@adelphi.edu</a> , 877-3223
James McGowan	Associate Dean of Professional Programs, Levermore Hall, Room 303L, <a href="mailto:mcgowan2@adelphi.edu">mcgowan2@adelphi.edu</a> ,
Guy Seneque	Director of Residential Life and Housing, Earle Hall A,

## **XI. FALSE COMPLAINTS**

Submitting a false report of prohibited conduct or providing false or misleading information in bad faith in connection with an incident of discrimination, harassment, and/or retaliation is prohibited and subject to disciplinary action, up to and including dismissal from the University. Such bad faith reporting may constitute retaliation in violation of this Policy. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate. An inquiry into a false complaint may be considered in a separate complaint and resolved through a separate investigation.

## **XII. POLICY REVIEW**

Typically, this Policy will be reviewed for possible revision every three years, or as otherwise necessary.

## **XIII. RECORDKEEPING**

For a period of seven (7) years, the University will maintain records generated in connection with reports, investigations, disciplinary proceedings, hearings, informal resolutions, appeals, and the audio, audiovisual recording, or transcript, as well as any determinations regarding responsibility including any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant. All materials used to train the Title IX Coordinator, investigators, members of the Hearing Panel or Appeals Panel, and any individual who facilitates informal resolution processes will also be maintained for at least seven (7) years.

For a period of seven (7) years, the University will also maintain records of any responses, including supportive measures, that the University took in response to a report, complaint, or formal complaint discrimination, harassment (including sexual misconduct) and retaliation. In each instance, the University will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If the University does not provide a complainant with supportive measures, the University must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

## **XIV. Sexual Misconduct Education, Training and Prevention**

Individuals involved in the process of resolution of complaints of sexual

misconduct, and particularly those involved in the resolution of formal complaints through Process A, such as the Title IX Coordinator, Investigators, Hearing Panel members, Appeals Panel members, and any person who facilitates an informal process, will receive training in accordance with federal, state, and local law, including the Clery Act, New York State Education Law Article 129-B, and 34 C.F.R. § 106.45. These individuals are also trained to serve impartially and must be free from conflicts of interest and bias against Complainants or Respondents generally or an individual Complainant or Respondent.

To promote and maintain a safe and respectful environment, and in compliance with applicable laws, Adelphi provides comprehensive educational programming to prevent sexual misconduct (including sexual harassment, domestic violence, dating violence, sexual assault, stalking, and retaliation). For example, the University provides primary prevention and awareness programs for all incoming students and employees, and ongoing prevention and awareness campaigns for all students and employees. Adelphi also provides mandatory training for leaders of student organizations and student-athletes. For more information about Adelphi's sexual misconduct prevention, prevention, training and awareness programming please contact the Title IX Coordinator.

## **XV. Policy Revisions**

The most current revision of this Policy supersedes all previously issued revisions and inconsistent verbal or written policy statements. The University reserves the right at any time to change, modify, delete, or add to any of the provisions of this Policy.

## **XVI. APPENDICES**

### **A. Students' Bill of Rights<sup>4</sup>**

The following can also be accessed at: <http://hr.adelphi.edu/title-ix/student-bill-of-rights>.

In cases involving sexual assault, dating violence, domestic violence and/or stalking, all students have the right to:

1. Make a report to the local law enforcement and/or the state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault taken seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful healthcare and counseling services where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;

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<sup>4</sup> The rights set forth in the Students' Bill of Rights as well as the rights set forth in New York Education Law Article 129-B apply regardless of whether the conduct occurs on campus, off campus, or while studying abroad. New York Education Law 129-B, Enough is Enough, § 6440(6). To the extent applicable, students maintain these rights during resolution of a complaint under Process A and/or Process B.

11. Exercise civil rights and the practice of religion without interference by the investigative, criminal justice or judicial or conduct process of the institution.

## **B. Definitions**

### **1. Actual Knowledge**

For purposes of 34 C.F.R. § 106.44, actual knowledge means notice of Title IX sexual harassment or allegations of Title IX sexual harassment to the University's Title IX Coordinator or any University official who has authority to institute corrective measures on behalf of the University, also known as any Official with Authority as defined below. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. The mere ability or obligation to report Title IX sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University. Notice includes, but is not limited to, reports, complaints, and formal complaints of Title IX sexual harassment, as defined herein. This standard is not met when the only official of the University with actual knowledge is the respondent. Once the University has actual knowledge of Title IX sexual harassment in its education program or activity against a person in the United States, the University will respond promptly in a manner that is not deliberately indifferent, as defined herein.

### **Advisor**

An individual who may be, but is not required to be, an attorney and that is selected by each party to accompany the party to meetings or a hearing, to advise the party, and to conduct cross-examination for the party at the hearing, if any. If a party does not select an advisor and a hearing under the Title IX Sexual Harassment Grievance Process is required based on allegations of Title IX sexual harassment, the University will appoint an advisor for purposes of conducting cross-examination.

### **Affirmative Consent**

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

1. CONSENT TO ANY SEXUAL ACT OR PRIOR CONSENSUAL SEXUAL ACTIVITY BETWEEN OR WITH ANY PARTY DOES NOT NECESSARILY CONSTITUTE CONSENT TO ANY OTHER SEXUAL ACT.
2. CONSENT IS REQUIRED REGARDLESS OF WHETHER THE PERSON INITIATING THE ACT IS UNDER THE INFLUENCE OF DRUGS AND/OR ALCOHOL.
3. CONSENT MAY BE INITIALLY GIVEN BUT WITHDRAWN AT ANY TIME.
4. CONSENT CANNOT BE GIVEN WHEN A PERSON IS INCAPACITATED, WHICH OCCURS WHEN AN INDIVIDUAL LACKS THE ABILITY TO KNOWINGLY CHOOSE TO PARTICIPATE IN SEXUAL ACTIVITY. INCAPACITATION MAY BE CAUSED BY LACK OF CONSCIOUSNESS OR BEING ASLEEP, BEING INVOLUNTARILY RESTRAINED OR IF THE INDIVIDUAL OTHERWISE

CANNOT CONSENT. DEPENDING ON THE DEGREE OF INTOXICATION, SOMEONE WHO IS UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER INTOXICANTS MAY BE INCAPACITATED AND THEREFORE UNABLE TO CONSENT.

5. CONSENT CANNOT BE GIVEN WHEN IT IS THE RESULT OF ANY COERCION, INTIMIDATION, FORCE OR THREAT OF HARM.
6. WHEN CONSENT IS WITHDRAWN OR CAN NO LONGER BE GIVEN, SEXUAL ACTIVITY MUST STOP.

### **Bystander**

A person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of this Policy, University rules, or other University policies.

### **Coercion**

Unreasonable pressure to engage in sexual activity.

### **Complainant**

An individual who is alleged to be the victim of conduct that could constitute discrimination, harassment (including sexual misconduct) or retaliation for engaging in a protected activity as prohibited by this Policy.

### **Complaint**

A document filed by a complainant or signed by the Title IX Coordinator alleging misconduct in violation of this Policy, including formal complaints of Title IX sexual harassment as defined below, against a respondent and requesting that the University investigate the allegation of misconduct.

### **Confidentiality**

Confidentiality may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. § 1092(f) and 20 U.S.C. § 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of institution employees who may offer confidentiality.

### **Dating Violence**

As defined by VAWA at 34 U.S.C. § 12291(a)(10), means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and 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 the relationship, and (iii) the frequency of interaction between the persons involved in the relationship.

### **Domestic Violence**

As defined by VAWA at 34 U.S.C. § 12291(a)(8), includes felony or misdemeanor crimes of violence committed by a current or former spouse or

intimate partner by the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

### **Deliberately Indifferent**

As defined in 34 C.F.R. § 106.44(a), means that an institution is deliberately indifferent only if its response to Title IX sexual harassment is clearly unreasonable in light of the known circumstances.

### **Determination**

A finding by a Hearing Panel containing the required information under 34 CFR § 106.45(b)(7), including a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity are to be provided to the complainant.

### **Disciplinary Sanction**

A consequence imposed by the University on a respondent who is found to have violated this Policy.

### **Discrimination**

Actions that deprive individuals of educational or employment access, benefits or opportunities on the basis of the individual's actual or perceived protected status (as protected status is described in Section I above).

### **Education Program or Activity**

For purposes of 34 C.F.R. §§ 106.30 and 106.45, the University's education program or activity includes locations, events or circumstances over which the University exercised substantial control over both the respondent and the context in which the alleged Title IX sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

### **Final Determination**

The written determination containing the information required in 34 CFR § 106.45(b)(7), as modified by any appeal by the parties. A determination regarding responsibility becomes final either on the date that Adelphi provides the Parties with the written determination of the result of the 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.



**Force**

The use of physical violence and/or imposing on someone physically to engage in sexual activity. Force can also include threats, intimidation, or coercion used to overcome an individual's freedom of will to choose whether or not to participate in sexual activity.

**Formal Complaint**

A document filed by a complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment against a respondent and requesting that the University investigate the allegation of Title IX sexual harassment. A formal complaint initiates the Title IX Sexual Harassment Grievance Process under this Policy.

**Harassment**

Harassment prohibited by this Policy includes, but is not limited to, conduct which constitutes sexual misconduct or other unwelcome conduct of a sexual nature, which includes unwelcome sexual advances, requests for sexual favors, or any other visual, verbal, non-verbal, or physical conduct of a sexual nature.

Sexual harassment shall also include, but not be limited to, sexual violence, which refers to sexual acts and/or sexual contact that occurs without affirmative consent or where a person is incapable of giving informed consent as a result of drugs or alcohol, intellectual or other disability, or age. Please see the full definition of Title IX sexual harassment below and the New York State Human Rights Law ("NYSHRL") definition in Appendix C.

Harassment prohibited by this Policy also includes dating violence, domestic violence and stalking as defined herein.

Harassment may also include derogatory visual, verbal, non-verbal, or physical conduct that demonstrates bias based on an individual's actual or perceived protected status (as protected status is described in Section I above) when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of the individual's academic or employment status or advancement; or
- Submission to or rejection of the conduct is used as the basis for academic or employment decisions affecting the individual; or
- The conduct has the purpose or effect of unreasonably interfering with the individual's academics (including social and residential experiences) or work performance by creating a hostile environment, regardless of whether it is directed toward that or any specific individual.

Examples of prohibited conduct that constitutes harassment include, or may include, but are not limited to:

- Unwanted physical contact including touching, interference with an individual's normal movement or assault;
- Verbal or non-verbal repeated and unwelcome sexual advances, innuendoes or propositions, racial or sexual epithets, derogatory slurs, off-color jokes, threats, or suggestive or insulting actions and/or sounds
- Derogatory visual posters, cartoons or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures;
- Threatening, intimidating or causing physical harm, or other conduct that threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class;
- The intentional recording, disseminating or viewing another person's sexual activity, intimate body parts or nakedness without their consent;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the University Hazing Policy) on the basis of actual or perceived membership in a protected class;
- Bullying, defined as repeated and/or aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally, on the basis of actual or perceived membership in a protected class;
- The intentional use or threatened use of violence between those in an intimate relationship to each other (this includes romantic relationships, dating and/or domestic violence);
- Stalking, defined as a course of conduct directed at a specific person designed for no legitimate purpose and which causes a reasonable person to be in fear for his or her safety or the safety of others, or to suffer substantial emotional distress.

### **Hearing Panel**

Presides over the hearing conducted during the University's Title IX Sexual

Harassment Grievance Process and issues a determination as defined herein.

### **Hostile Environment**

A hostile environment exists when: conduct is severe, pervasive or persistent, and is on the basis of actual or perceived membership in a protected class, and limits, denies or unreasonably interferes with an individual's work or academic experience (including social and residential participation.)

A single or isolated incident of sexual harassment, dating violence, domestic violence or stalking may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical.

### **Incapacitation**

Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity.

Incapacity is defined as the inability to make rational and reasonable decisions due to lack of capacity to give informed consent (e.g., the person lacks the ability to understand the "who, what, when, where, why or how" of engaging in sexual activity).

A person cannot consent if he or she is unable to understand what is happening or is disoriented, physically helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. Incapacity can also result from a mental, intellectual or other disability or from involuntary restraint. An individual who engages in sexual activity when they know, or should know, that the other person is physically or mentally incapacitated has violated this Policy. It is not an excuse that the individual accused of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

In New York, a person under the age of seventeen cannot legally consent to sexual activity and is considered incapacitated.

### **Intimidation**

Implied threats that reasonably cause another individual to fear for that individual's safety or well-being.

### **Investigator**

Individual appointed by the Title IX Coordinator or their designee to investigate the allegations of prohibited conduct. Investigators analyze and document available evidence, including witness statements; objectively evaluate the credibility of parties and witnesses; synthesize all available evidence, including both inculpatory and exculpatory evidence; and take into account the

unique and complex circumstances of each case. Investigators are also charged with creating an investigative report that fairly summarizes relevant evidence.

#### **New York State Human Rights Law (“NYSHRL”) Retaliation**

Please see Appendix C for the definition of NYSHRL retaliation and related information.

#### **New York State Human Rights Law (“NYSHRL”) Sexual Harassment**

Please see Appendix C for the definition of NYSHRL sexual harassment and related information.

#### **No-Contact Order**

A directive prohibiting contact between and among designated individuals through any means, direct or indirect, including personal contact, email, telephone, text message, social media, or by means of a third party. Continued intentional contact would be a violation of University policy subject to additional conduct charges.

#### **Notice**

Notice means that an individual informs the Title IX Coordinator or other Official with Authority of the alleged or occurrence of discrimination, harassment (including sexual misconduct) or retaliation.

#### **Official with Authority**

An employee of the University who has the authority to implement corrective action on behalf of the University.

#### **Party or Parties**

Party refers to a complainant or a respondent; and parties include the complainant(s) and respondent(s), collectively.

#### **Preponderance of the Evidence**

The standard to determine responsibility under this Policy. This means that it is more likely than not that a violation of this Policy occurred.

#### **Privacy**

Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws or this Policy, including informing appropriate University officials.

#### **Prohibited Conduct**

Includes all conduct that is in violation of and prohibited by this Policy, including discrimination, harassment (including sexual misconduct), and retaliation on the basis of an actual or perceived protected status. The University

has designated different types of prohibited conduct as well as procedures that correspond best with the University's different constituencies. Conduct that constitutes prohibited conduct is set forth and defined in the applicable procedures. Prohibited conduct will be investigated and adjudicated pursuant to the applicable procedures.

### **Remedies**

Remedies are actions taken by the University in favor of a complainant after the respondent has been found responsible through the processes set forth in this Policy. Remedies are designed to restore or preserve equal access to the University's education program or activity. Remedies can be the same as supportive measures but need not be non-disciplinary or non-punitive and need not avoid burdening respondent.

### **Report**

A report is made to the Title IX Coordinator and is verbal or written, by any person, alleging discrimination, harassment (including sexual misconduct) or retaliation as prohibited by this Policy. Such a report can be made at any time in person, by mail, by phone, or by electronic mail. Reports of Title IX sexual harassment may include notice as defined above. A report is not the same as a complaint or a formal complaint and will not initiate the processes set forth in this Policy.

### **Reporting Individual**

Any individual who reports an alleged violation of this Policy to the Title IX Coordinator. This may or may not be the same as the complainant, a witness, or a bystander.

### **Respondent**

An individual who has been reported to be the perpetrator of conduct that could constitute discrimination, harassment (including sexual misconduct) or retaliation for engaging in a protected activity as prohibited by this Policy.

### **Retaliation**

Retaliation is an intentional action taken by an accused individual or allied third party, absent legitimate non-discriminatory purposes, that harms or attempts to harm an individual as reprisal for filing a complaint, supporting a complainant or otherwise participating in a proceeding pursuant to this Policy. Retaliation includes intimidating, threatening, coercing or in any way discriminating against an individual because of the individual's complaint or participation in an investigation or proceeding.

Under no circumstances will Adelphi University tolerate any retaliation against an individual or group for making a complaint of harassment or discrimination in good faith under this Policy or for participating in an investigation. Please note that retaliation is also prohibited under Title IX as defined below.

Examples of retaliation include, but are not limited to, the following actions taken because the individual has filed or makes known plans to file a complaint pursuant to this Policy:

- A professor fails a student or assigns a grade lower than the student earned because the student has filed or makes known plans to file a complaint against the professor.
- A coach excludes a student from a team or limits the amount of playing time during an athletic activity of a student because the student has filed or makes known plans to file a complaint against the coach.
- A supervisor gives deflated performance evaluations, or withholds deserved support for tenure and promotion, or requires punitive work assignments of an employee because the employee has filed or makes known plans to file a complaint against the supervisor.
- A professor or administrator excludes a student from participation in an organization, club or activity or imposes an inequitable workload because the student or employee has filed or makes known plans to file a complaint against the professor or administrator.
- A third party or person disparages a student or employee because the student or employee supports a complainant or any other participant in the process.

### **Sex**

Sex encompasses sex, gender, sexual orientation, gender identity, and gender expression for purposes of this Policy.

### **Sexual Activity**

Sexual activity includes sexual acts and/or sexual contact that occurs without affirmative consent (see definition below) to engage in the activity.

#### **Sexual Act means:**

1. Contact between the penis and the vulva or the penis and the anus, and for the purposes of this subparagraph, contact involving the penis occurs upon any penetration, however slight;
2. Contact between the mouth and the penis, the mouth and the vulva or the mouth and the anus;
3. Penetration however slight of the anal or genital opening of another by a hand or finger or by any object, with the intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

**Sexual Contact** means:

The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person with the intent to abuse, humiliate, harass, degrade or gratify the sexual desire of any person.

**Sexual Assault**

As defined in 20 U.S.C. § 1092(f)(6)(A)(v), means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation ("FBI"). These offenses are defined<sup>5</sup> as follows:

**Sex Offenses:**<sup>6</sup> include any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- **Rape – Completed [SRS Definition]:** penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This definition includes either gender of victim or offender. Sexual penetration means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.
- **Rape (except statutory rape) [NIBRS Definition – to be used only when the SRS is retired]**<sup>7</sup>: the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- **Sodomy:** oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical

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<sup>5</sup> The definitions herein are from the most recent Uniform Crime Reporting Program National Incident-Based Reporting System (the "NIBRS") User Manual, dated May 7, 2020, with the exception of Rape, which, in accordance with the Clery Act, is defined pursuant to the FBI's Uniform Crime Reporting Program Summary Reporting System (the "SRS"), dated June 20, 2013. Once the SRS is retired, the NIBRS definition of rape shall be used.

<sup>6</sup> Under the NIBRS User Manual dated 2011, available [here](#), this definition was used to describe "Sex Offenses, Forcible." The following acts were classified as "Sex Offenses, Forcible": Forcible Rape (Except Statutory Rape), Forcible Sodomy, Sexual Assault with An Object, and Forcible Fondling.

<sup>7</sup> It is anticipated that the FBI will retire the SRS on January 1, 2021.

incapacity.

- **Sexual Assault with an Object:** to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia, e.g., a finger, bottle, handgun, stick.
- **Fondling:** the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

**Sex Offenses<sup>8</sup>:** also include unlawful sexual intercourse:

- **Incest:** sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.

### Sexual Exploitation

Sexual exploitation refers to a situation in which a person takes non- consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions herein of Sexual Harassment or Sexual Assault. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person(s) observed).
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent).
- Prostitution, which includes acts of engaging in, soliciting, patronizing, facilitating and promoting prostitution.

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<sup>8</sup> Under the NIBRS User Manual dated 2011, available [here](#), the definition of “(except prostitution offenses) unlawful, nonforcible sexual intercourse” was used to describe “Sex Offenses, Nonforcible.” The following acts were classified as “Sex Offenses, Nonforcible”: Incest, Statutory Rape. Moreover, please note that under the most recent NIBRS (2020), failure to register as a sex offender is also considered a sex offense and is defined as failing to register or keep current a registration as required by state and federal laws.



- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted infection (STI) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent for the purpose of sexual activity.
- Sexual exhibitionism which includes the derivation of sexual gratification through compulsive display of one’s genitals.

### **Sexual Misconduct**

Sexual misconduct is a broad term that encompasses a wide range of prohibited behaviors including: sexual harassment (including under NYSHRL and Title IX), sexual activity, sexual assault, sexual exploitation, dating violence, domestic violence, and stalking, as these terms are defined herein.

### **Stalking**

As defined by VAWA at 34 U.S.C. § 12291(a)(30), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for their safety or the safety of others; or (2) suffer substantial emotional distress.

### **Supportive Measures**

Non-disciplinary and non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a complaint or formal complaint or where no complaint or formal complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or deter prohibited conduct. See Section VI for additional information.

### **Title IX Coordinator**

For purposes of this Policy, Title IX Coordinator refers to the Title IX Coordinator and/or their designee.

### **Title IX Retaliation**

The prohibition against retaliation under Title IX (“Title IX retaliation”) applies to students and employees of the University. Unless the form of retaliation constitutes Title IX sexual harassment, retaliation will be addressed under the normal procedures set forth in this Policy, and not the Title IX Sexual Harassment Grievance Process.

Under Title IX, the University will not tolerate any intimidating, threatening,

coercing, or discriminating behavior against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because an individual has made a report or formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or Title IX sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination or a report or formal complaint of Title IX sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The University will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of Title IX sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute or regulations, or as required by law, or to carry out the procedures set forth under Title IX in 34 C.F.R. part 106.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this subsection of the Policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation under this subsection of the Policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

### **Title IX Sexual Harassment**

The prohibition against sexual harassment under Title IX and its implementing regulations ("Title IX sexual harassment") applies to the conduct of students and employees of the University. Reports and formal complaints of conduct that constitutes Title IX sexual harassment are addressed under the procedures set forth below under the section of this Policy titled "Title IX Sexual Harassment Grievance Process." Conduct that constitutes sex discrimination, including under Title IX, and which do not constitute Title IX sexual harassment are addressed under the other procedures set forth in this Policy.

Under Title IX, specifically 34 C.F.R. § 106.30, "sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

- (1) A University employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or

- activity;<sup>9</sup> or
- (3) Sexual assault as defined in 20 U.S.C. § 1092(f)(6)(A)(v), dating violence, as defined in 34 U.S.C. § 12291(a)(10), domestic violence, as defined in 34 U.S.C. § 12291(a)(8), or stalking, as defined in 34 U.S.C. § 12291(a)(30).

To fall within the scope of Title IX, the sexual harassment must have occurred during the University's education program or activity, as defined herein, against a person in the United States. Further, the complainant must have been participating in the University's education program or activity at the time of the filing of the formal complaint in order for the Title IX sexual harassment allegations to be addressed under the Title IX Sexual Harassment Grievance Process set forth in the Policy.

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<sup>9</sup> Please note that categories 1 and 3 do not require elements of severity, pervasiveness, or objective offensiveness. Severity, pervasiveness, and objective offensiveness must be evaluated in light of the known circumstances and depend on the facts of each situation but must be determined from the perspective of a reasonable person standing in the shoes of the complainant.

## C. NYSHRL

### Sexual Harassment<sup>10</sup>

Sexual harassment is offensive, is a violation of University policies, is unlawful, and may subject Adelphi to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

All employees are encouraged to report any harassment or behaviors that violate this policy. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Title IX Coordinator.

Under the NYSHRL, “sexual harassment” is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful and can be any harassing conduct that consists of more than petty slights or trivial inconveniences. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s

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<sup>10</sup> The NYSHRL applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors, and persons conducting business, regardless of immigration status, with Adelphi; all must follow and uphold this Policy. Any employee or individual covered by this Policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action.

sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this Policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this Policy.

#### Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being

transgender, such as:

- Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
- Sabotaging an individual's work;
- Bullying, yelling, name-calling.

Sexual harassment can occur between any individuals, regardless of their sex or gender. NYSHRL protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or Parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Preventing sexual harassment is everyone's responsibility. The University cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to the Title IX Coordinator, or to a supervisor or manager. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior immediately.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is available at <http://hr.adelphi.edu/title-ix/report/>, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf. Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the Title IX Coordinator. In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue. Supervisors and managers will also be subject to discipline for engaging in any retaliation.

**All** complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and respondents will be accorded due process, as outlined above, to protect their rights to a fair and impartial investigation. Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Adelphi will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy. NYSHRL sexual harassments claims will be handled as outlined above and in accordance with Process B.

#### LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Sexual harassment is not only prohibited by Adelphi but is also prohibited by state, federal, and, where applicable, local law. Aside from the internal process at the University, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney. In addition to those outlined below, employees in certain industries may have additional legal protections.

##### **A. New York State Division of Human Rights**

The Human Rights Law ("HRL"), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights ("DHR") or in New York State Supreme Court.

Complaints with DHR may be filed any time within three years of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court. Complaining internally to Adelphi does not extend your time to file with DHR or in court. The three years is counted from the date of the most recent incident of harassment. You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the



harassment, or redress the damage caused, including paying monetary

damages, attorney's fees and civil fines. Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400, [www.dhr.ny.gov](http://www.dhr.ny.gov) Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **B. U.S. Equal Employment Opportunity Commission (EEOC)**

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days<sup>11</sup> from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining Parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov). If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **C. Local Protections and the Local Police Department**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

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<sup>11</sup> Note: this is actual days, not business days.

## **Retaliation**

No person covered by the NYSHRL Policy shall be subject to adverse action because the employee reports an incident of NYSHRL sexual harassment, provides information, or otherwise assists in any investigation of a NYSHRL sexual harassment complaint. Adelphi will not tolerate such NYSHRL retaliation against anyone who, in good faith, reports or provides information about suspected NYSHRL sexual harassment. Any employee of Adelphi who retaliates against anyone involved in a NYSHRL sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees<sup>12</sup> working in the workplace who believe they have been subject to such NYSHRL retaliation should inform a supervisor, manager, or the Title IX Coordinator. All employees, paid or unpaid interns, or non-employees who believe they have been a target of such NYSHRL retaliation may also seek relief in other available forums, as explained above in the Legal Protections section.

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a NYSHRL sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours). Such retaliation is unlawful under federal, state, and (where applicable) local law. The NYSHRL protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- Opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- Reported that another employee has been sexually harassed; or
- Encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

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<sup>12</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with Adelphi.



#### **D. Additional Rights for Reporting Individuals and Complainants in Sexual Misconduct Cases (Including Title IX Sexual Harassment Cases)**

In addition to the provisions outlined in this Policy, individuals reporting allegations of sexual misconduct to University personnel shall be apprised of the following rights at the time of their initial disclosure:

- The right to make a report to Public Safety, local law enforcement and/or the state police about the incident or to choose not to report.
- The right to report the incident to the University and be protected by the University from retaliation for reporting the incident.
- The right to receive assistance, measures and confidential resources from the University.
- The right to emergency access to the Title IX Coordinator or other appropriate official trained in interviewing victims of sexual misconduct, who shall be available upon the first instance of disclosure by a complainant or reporting individual to provide information regarding options to proceed, and where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing the different standard of proof and evidence used in the criminal justice system and that questions regarding the penal law should be addressed to law enforcement or the district attorney. Such officials shall also explain whether they are authorized to offer the complainant confidentiality or privacy and shall inform the complainant of other reporting options.
- The right to disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals.
- The right to disclose confidentially the incident and obtain services from the state or local government.
- The right to disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals.

Reporting Individuals and Complainants in Sexual Misconduct Cases also have the following additional rights:

- a. A reporting individual or complainant's identity shall remain private at all times if the reporting individual or complainant wishes to maintain privacy. Please see Section V(B) above for further explanation.
- b. If the accused is an employee of the University, the complainant has the

- right to disclose the incident to Human Resources and the right to request a confidential or private employee to assist in the reporting.
- c. The right to receive assistance from an appropriate University representative on how to initiate legal proceedings in family or civil court.
  - d. The right to withdraw a complaint or involvement from the University process at any time. The University may still have obligations pursuant to state and federal law to investigate the incident and take action. The complainant may participate in the process to whatever degree they wish.
  - e. All parties have the right to be provided with information about available resources, including intervention, mental health counseling and medical services, including costs. The University will also provide information on sexually transmitted infections, sexual assault forensic examinations and resources available through the New York State Office of Victim Services.
  - f. To have the University issue a “No-Contact Order” in cases where the accused is a student, consistent with the procedures outlined in the *Code of Conduct* which also provides for prompt review.
  - g. To be assisted by Public Safety in obtaining an Order of Protection or an equivalent protective or restraining order.
  - h. To receive a copy of the Order of Protection or equivalent when received by the University and be provided with the opportunity to speak with a Public Safety Officer to answer questions, explain the provisions of the order, and explain the consequences for violating the order.
  - i. To receive assistance from Public Safety in effecting an arrest when an Order of Protection is violated.
  - j. When the accused is a student who presents a continuing threat to the health and safety of the community, to subject the accused to interim suspension consistent with the *Code of Conduct*, which has a provision for prompt review.
  - k. When the accused is not a student, but is a member of the University community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements and the policies of the University.
  - l. To receive reasonable interim accommodations (also referred to in this policy as supportive measures) regarding academics, housing, employment, transportation or other applicable arrangements to help ensure safety, prevent retaliation and a hostile environment, consistent with the University’s policies. Both parties and the reporting individual shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects them, and shall be allowed to submit evidence in support of their request.
  - m. To request student conduct charges be filed against an accused student governed by this Policy in conjunction with the *Code of Conduct*, which include, among other things, the right to receive written notice of the charges, date, time, location and factual allegations concerning the

violation, dates of meetings, the final determination, possible sanctions, to review the record and evidence in the case file, or otherwise in the possession or control of the University, and relevant to the conduct case, present witnesses and evidence and be accompanied by an advisor of choice to all meetings and the presumption that the respondent is not responsible until proven otherwise.

- n. To receive a prompt response to the complaint or formal complaint and have it investigated and adjudicated in an impartial, timely, and thorough manner by impartial individuals who do not have a conflict of interest and who have been trained annually in conducting investigations involving sexual misconduct, the effects of trauma, the need for impartiality, the rights of the accused and the presumption of “not responsible.”
- o. Both parties have the right to exclude their own prior sexual history with persons other than the other party to the proceedings or their own mental health diagnosis and/or treatment from admittance into the disciplinary stage that determines responsibility.<sup>13</sup> Past findings of dating violence, domestic violence, stalking or sexual assault may be admissible in the sanction stage.
- p. Both parties have the right to choose whether to disclose or discuss the outcome of the University proceedings and have information obtained during the proceedings protected from public release until the appeals panel makes a final determination, unless required by law.
- q. For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), the University will make a notation on the transcript of students found responsible after a conduct process that they were “suspended after a finding of responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” For a respondent who withdraws from the University while such conduct charges are pending, and declines to complete the disciplinary process, it will make a notation on the transcript of such students that they “withdrew with conduct charges pending.” A student has the right to appeal such transcript notation to request its removal in the event of a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension. Notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.
- r. Adelphi University has a Memorandum of Understanding with the Sexual Assault Nurse Examiner Program at Northwell Health (formerly North Shore Hospital) to provide forensic examinations in appropriate sexual assault cases.
- s. The University will conduct an anonymous Campus Climate Survey every other year to ascertain general awareness and knowledge of issues pertaining to sexual assault, dating violence, domestic violence and

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<sup>13</sup> This provision applies unless the exceptions under the Title IX Sexual Harassment Grievance Process apply.

stalking, which will be developed using standard and commonly recognized research methods. The results of this survey will be published on the University website provided that no personally identifiable information or information which can reasonably lead a reader to identify an individual shall be shared. The University will take steps to ensure that answers to climate surveys remain anonymous and that no individual is identified. Information discovered or produced as a result of the climate survey will not be subject to discovery or admitted into evidence in any federal or state court proceeding or considered for other purposes in any action for damages brought by a private party against the University, unless, in the discretion of the court, any such information is deemed to be material to the underlying claim or defense.

- t. Adelphi will make reports of certain crimes occurring in specific geographic locations that shall be included in Adelphi's annual security report pursuant to the Clery Act, 20 U.S.C. 1092(f), in an anonymized manner that identifies neither the specifics of the crime nor the identity of the reporting individual. Adelphi is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. A reporting individual shall not be identified in a timely warning. FERPA allows Adelphi to share information with parents when i. there is a health or safety emergency, or ii. when the student is a dependent on either parent's prior year federal income tax return. Generally, Adelphi shall not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual.
- u. Information regarding confidential and other available resources are addresses herein and posted on the University website under "Title IX and Sexual Respect."
- v. If an individual discloses information at a public awareness event the University is not obligated to initiate an investigation but may use the information to inform education and prevention efforts.