



## POLICY AND PROCEDURES

### Sexual Harassment & Nondiscrimination Policy

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*Policy approved 7/2022. Policy effective as of July 6, 2022.*

## **POLICY AND PROCEDURES**

### **Sexual Harassment & Nondiscrimination Policy**

Should a court strike down, either temporarily or permanently, any terms or provisions of these policies and procedures, Holy Family University reserves the right to make immediate modifications to the policies and procedures that take effect upon publication on our website. Further, should any court strike any portion of the 2020 Title IX Regulations (34 C.F.R. Part 106), or should an administration order them suspended or withdrawn, the University reserves the right to withdraw these policies and procedures and immediately reinstate previous policies and/or procedures or revise them accordingly.

Pursuant to the District Court of Massachusetts decision in *Victim Rights Law Center et al. v. Cardona*, 552 F.Supp.3d 104 (D. Mass. July 28, 2021) (“*Cardona*”), and the Department of Education’s August 24, 2021 Letter to Students, Educators and Other Stakeholders updating regulations to be consistent with Cardona (“August 24, 2021 Letter”), the University amended its policies and procedures to be consistent with the provisions of Title IX of the Education Amendments of 1971, as amended in 2020, and clarified by the Department of Education in its August 24, 2021 Letter.

### **University Nondiscrimination Statement**

#### **Policy Statement**

Holy Family University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, Holy Family University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. Holy Family University values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

#### **Policy Application**

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this anti-discrimination policy is reported, the allegations are subject to resolution using Holy Family University’s “Title IX Grievance Policy” or “Code of Conduct/Allegation of Violation of Nondiscrimination Policy,” as determined by the Title IX Coordinator, and as detailed below.

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside of the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined within the Student Code of Conduct, Employee Code of Conduct, or those policies established for allegations of non-sex based discrimination and harassment through a separate grievance proceeding.

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

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

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

### **Revocation by Operation of Law**

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Grievance Policy be revoked in this manner, any conduct covered under the Title IX Grievance Policy shall be investigated and adjudicated under the existing Student Code of Conduct Policy or Employee Code of Conduct Policy.

### **Title IX**

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

### **University Title IX Coordinator**

Marianne Price, M.S. serves as the Title IX Coordinator for Holy Family University. The Title IX Coordinator oversees implementation of the University's Sexual Harassment and Nondiscrimination Policy, and has the primary responsibility for coordinating Holy Family University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

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

### **Contact Information**

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Marianne Price, Dean of Students & Title IX Coordinator  
 Campus Center Room 208, Philadelphia Main Campus  
 9801 Frankford Avenue, Philadelphia, PA 19114  
 267-341-3204  
[mprice@holyfamily.edu](mailto:mprice@holyfamily.edu) | [titleix@holyfamily.edu](mailto:titleix@holyfamily.edu)  
<https://www.holyfamily.edu/title-ix>

### **Deputy Title IX Coordinator and Nondiscrimination Coordinator**

The Deputy Title IX Coordinator supports the coordination and implementation of the University's compliance efforts for the Sexual Harassment and Nondiscrimination Policy, and provides assistance to the Title IX Coordinator for intake meetings, initial assessment, oversight of investigations, and training and prevention efforts. The Deputy Title IX Coordinator also serves as a Title IX & Civil Rights Investigator.

An Jackson-Washington, MSRC, Director of Equity & Inclusion / Deputy Title IX Coordinator  
 Campus Center Room 205, Philadelphia Main Campus  
 9801 Frankford Avenue, Philadelphia, PA 19114  
 267-341-3504  
[ajackson3@holyfamily.edu](mailto:ajackson3@holyfamily.edu) | [equity@holyfamily.edu](mailto:equity@holyfamily.edu)  
<https://www.holyfamily.edu/current-students/student-resources/office-of-equity-inclusion>

### **Title IX & Civil Rights Investigators**

Under direction of the Title IX Coordinator, Title IX & Civil Rights Investigators investigate complaints filed by students and employees involving civil rights and discrimination issues, as well as sex-based discrimination, sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence and retaliation. Investigators complete in-depth and ongoing training, and assist the University in ensuring a timely response and resolution of complaints. The University retains the right to utilize external Investigators when it deems necessary.

### **Officials with Authority**

Holy Family University has determined that the following administrators are Officials with Authority to address and correct harassment, discrimination, and/or retaliation. In addition to the Title IX Team members listed above, these Officials with Authority listed below may also accept notice or complaints on behalf of the University:

- Dean of Students & Title IX Coordinator
- Director of Equity & Inclusion / Deputy Title IX Coordinator
- Athletics Director
- Associate Vice President for Human Resources
- Associate Vice President for Student Life
- Dean, School of Arts & Sciences
- Dean, School of Business & Professional Students
- Dean, School of Education
- Dean, School of Nursing & Health Sciences
- Vice President, University Advancement
- Vice President, Mission & Diversity
- Vice President, Marketing & Communication
- Vice President, Academic Affairs
- Vice President, Finance and Administration and Chief Financial Officer

- Vice President, Student Life
- Chief of Staff
- University President

## **Mandated Reporters**

Holy Family University has also classified all employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation.

## **Confidential Reporting**

Holy Family University encourages all members of the community to report any incident of sexual misconduct as promptly as possible so that the University can respond effectively. The University recognizes, however, that not every person will choose to make a formal report with the University or with local law enforcement. When consulting campus resources, community members should be aware of confidentiality and mandatory reporting in order to make informed choices. On campus, some resources can offer confidentiality, sharing options and advice without any obligation to tell anyone unless the Complainant wants them to do so. Other resources are expressly required to report incidents of sexual misconduct to the Title IX Coordinator.

For those 18 or older who are not yet prepared to make a report or pursue a complaint under this Policy, the University provides confidential professional and pastoral counseling. Complainants may use these resources to talk to someone about an incident of sexual misconduct in a confidential manner whether or not they decide to make an official report, or to participate in the University complaint resolution process or the criminal justice system. Conferring with these resources will not trigger an investigation by the University or law enforcement.

Licensed mental health counselors, medical providers, and pastoral counselors are examples of University employees who may offer confidentiality. Only those University employees designated as outlined below can offer legally protected confidentiality.

Confidential professional and pastoral counselors can:

- Explain the reporting and resolution process.
- Provide support while the University or criminal processes are ongoing and/or pending.
- Explain options for obtaining additional support from the University and off-campus resources.
- Arrange for medical care and accompany complainants, or arrange for someone to accompany complainants to seek such care.
- Should the Complainant decide to file a complaint with the University or law enforcement, these individuals will direct the Complainant to the appropriate individuals to do so.

Professional counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without a Complainant's permission.

Professional counselors and confidential resources:

Director of Counseling Services and Staff Counselor  
Philadelphia Main Campus, Campus Center Rooms 202 & 204  
267-341-3222

A Pastoral Counselor is an employee of an institution, who is associated with a religious order or denomination, recognized by that religious order or denomination as someone who provides confidential counseling, and who is functioning within the scope of that recognition as a pastoral counselor. A Pastoral

Counselor who provides pastoral counseling to members of the school community are not required to report any information about an incident to the Title IX Coordinator without a Complainant's permission.

Pastoral counselor and confidential resource:

Director of Campus Ministry  
Philadelphia Main Campus, Campus Center, Room 224  
267-341-3261

A Complainant can seek assistance and support from individuals who work or volunteer in the Campus Health Services. While these individuals must report that an incident occurred to the Title IX Coordinator, they are not required to reveal any personally identifying information about an incident to the University.

Following is contact information for these non-professional counselors and advocates:

Director of Health Services  
Registered Nurse  
Stevenson Lane Residence Hall Office 113D  
267-341-3262

### **Notice/Complaints of Discrimination, Harassment, and/or Retaliation**

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

1. File a complaint with, or give verbal notice to, the Title IX Coordinator, Deputy Title IX Coordinator, or Officials with Authority. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.
2. Report online, using the reporting form posted at <https://holyfamily-pa.safecollegesincident.com>.

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

### **Formal Complaint**

A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the University investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section titled "Contact Information", or as described in this section. As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through the University's online portal at <https://holyfamily-pa.safecollegesincident.com>) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the University investigate the allegations.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## **Non-Investigatory Measures Available**

### **Supportive Measures**

Holy Family University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

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

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University 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. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. The University will act to ensure as minimal an academic/occupational impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

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

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

### **Emergency Removal**

Holy Family University can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Campus Assessment, Response and Evaluation (CARE) Team using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student/employee will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion. There is no appeal process for emergency removal decisions.

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

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

This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX.

Where the Respondent is an employee, existing provisions for interim action are applicable.

### **Administrative Leave**

Holy Family University retains the authority to place a non-student employee Respondent on administrative leave during the Title IX Grievance Process.



## Education Program or Activity

This policy applies to Holy Family University education program or activity to include:

- Any on-campus premises
- Any off-campus premises that Holy Family University has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of Holy Family University's programs and activities over which the University has substantial control.

The Respondent must be a member of the University community for these policies to apply.

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

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

If the Respondent is unknown or is not a member of the Holy Family University community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Further, even when the Respondent is not a member of the University's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or Deputy Title IX Coordinator.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies. Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

Should the University determine that conduct does not fall within the Title IX Grievance Policy, the University reserves the right to investigate and adjudicate conduct under other designated policies and processes, such as the Student Code of Conduct, Employee Code of Conduct, or those grievance procedures established for allegations of nonsex-based discrimination and harassment.

## Promptness

All allegations are acted upon promptly by the University once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, and the University will avoid all undue delays within its control. Any time the general timeframes for resolution outlined in these procedures will be delayed, the University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

## **Privacy**

Every effort is made by Holy Family University to preserve the privacy of reports. The University will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Holy Family University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA). Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Human Resources, Office for Equity & Inclusion, Division of Student Affairs, and the Campus Assessment, Response and Evaluation (CARE) Team. Information will be shared as necessary with Support Advisors, Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

## **Disability Accommodations**

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

## **Policy on Nondiscrimination**

Holy Family University adheres to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education. The University does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of: race, color, religion, age, sex, sexual orientation, gender identity or expression, national or ethnic origin, ancestry, disability, marital status, military/veteran status, or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus, with the Equal Employment Opportunity Commission, or other human rights agencies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the Holy Family University community whose acts deny, deprive, or limit the educational, employment, residential and/or social access, benefits, and/or opportunities of any member of the University community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of the University's policy on nondiscrimination.

When brought to the attention of Holy Family University, any such discrimination will be promptly and fairly addressed and remedied by the University according to the Nondiscrimination Policy grievance process described below.

## **Policy on Disability Discrimination and Accommodation**

Holy Family University is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified

persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities.

An Jackson, Director of Equity & Inclusion / Deputy Title IX Coordinator, [equity@holyfamily.edu](mailto:equity@holyfamily.edu) has been designated as the University's ADA/Section 504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

Grievances related to disability status and/or accommodations will be addressed using the Section 504/ADA Grievance Procedures as outlined in the Student Handbook.

### **Policy on Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. Holy Family University's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under the Sexual Harassment and Nondiscrimination policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of this policy, though supportive measures will be offered to those impacted. All policies encompass actual and/or attempted offenses.

#### **Discriminatory Harassment**

Discriminatory harassment constitutes a form of discrimination that is prohibited by University policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

Holy Family University does not tolerate discriminatory harassment of any employee, student, visitor, or guest. The University will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive and objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, the University may also impose sanctions on the Respondent through application of the [appropriate] grievance process below.

Holy Family University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under University policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternate Resolution, and/or other informal resolution mechanisms.

For assistance with Alternate Resolution and other informal resolution techniques and approaches, employees should contact Human Resources, and students should contact the Director of Equity & Inclusion / Deputy Title IX Coordinator.

## Policy on Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State/Commonwealth/District of Pennsylvania regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

1. Quid Pro Quo: An employee conditioning educational benefits on participation in unwelcome sexual conduct;
2. Sexual Harassment, which includes unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity;
3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person:
  - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship;
    - ii. The type of relationship;
    - iii. The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Pennsylvania's domestic or family violence laws 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 Pennsylvania.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to
  - a. fear for their safety or the safety of others; or
  - b. suffer substantial emotional distress.

For the purposes of this definition:

- i. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- iii. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Note that conduct that does not meet one or more of these criteria may still be prohibited under the Student Code of Conduct or Employee Code of Conduct.

## Consent

For the purposes of this Title IX Grievance Policy, consent is defined by the University as an action that is:

- clear, knowing and voluntary;
- active, not passive;
- words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

Consent is:

- Explicitly communicated
- Reversible at any time
- Informed
- Voluntary
- Specific

Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.

Consent cannot be given:

- While asleep
- When unconscious
- If physically or mentally helpless
- If disoriented or unable to understand what is happening for any reason, including due to alcohol or drug use
- If under the applicable legal age of consent.

## RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON SEXUAL HARASSMENT AND NONDISCRIMINATION

### TITLE IX GRIEVANCE PROCESS

#### Overview

Holy Family University will act on any formal or informal notice/complaint of violation of the policy on Sexual Harassment and Nondiscrimination (“the Policy”) that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures.

Title IX Grievance Process as outlined below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members.

If other policies are invoked, such as policies on protected class harassment or discrimination above, please see for a description of the procedures applicable to the resolution of such offenses. This Process can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within this Process, as determined by the Title IX Coordinator.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the Student Handbook and Employee Handbook.

#### Filing a Formal Complaint

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) calendar days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of Holy Family University, including as an employee. For complainants who do not meet this criteria, the University will utilize existing policy in the Non-Academic Grievance Procedures, Student Code of Conduct and/or Employee Code of Conduct.

If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. Holy Family University will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

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

## Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, and may seek to determine if the Respondent is also willing to engage in informal resolution.
  - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue, based on the nature of the complaint.
    - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which resolution process is applicable, and will refer the matter accordingly. Dismissing a complaint under Title IX is solely a procedural requirement under Title IX, and does not limit the Recipient’s authority to address a complaint with an appropriate process and remedies.

## Determining Jurisdiction

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

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in Holy Family University education program or activity; and
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, Holy Family University will investigate the allegations according to the Title IX Grievance Process.

### **Mandatory Dismissal**

If any one of these elements are not met, the Title IX Coordinator will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Policy. Each party may appeal this dismissal using the procedure outlined below.

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside of the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined within the Student Code of Conduct, Employee Code of Conduct, the Student Code of Conduct, Employee Code of Conduct, or those policies established for allegations of non sex-based discrimination and harassment through a separate grievance proceeding.

### **Discretionary Dismissal**

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

- A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The Respondent is no longer enrolled or employed by Holy Family University; or,
- If specific circumstances prevent Holy Family University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth below.

### **Notice of Dismissal**

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

### **Notice of Removal**

Upon dismissal for the purposes of Title IX, Holy Family University retains discretion to utilize the Code of Conduct/Allegation of Violation of Nondiscrimination Policy, or other Student Code of Conduct or Employee Code of Conduct as outlined in University Handbooks, to determine if a violation has occurred. If so, Holy Family University will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Process and removal of the allegations to the conduct process.

### **Multi-Party Situations**

The institution may consolidate Formal Complaints alleging covered 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 covered sexual harassment arise out of the same facts or circumstances.



## **Right to an Advisor**

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

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

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

## **Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the University community. The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the University, the Advisor will be trained by the University and be familiar with the University's resolution process.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

## **Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay. The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

## **Advisors in Hearings/University-Appointed Advisor**

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

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, the University will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-makers during the hearing.

### **Advisor Violations of Policy**

All Advisors are subject to the same policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

### **Notice of Allegations**

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

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

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above, and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

### **Contents of Notice**

The Notice of Allegations will include the following:

- Notice of the institution's Title IX Grievance Process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the Complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an Advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 C.F.R. § 106.45(b)(5)(iv);
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi);

## **Ongoing Notice**

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

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

## **Notice of Meetings and Interviews**

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

## **Delays**

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

## **Resolution Processes**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with University policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below.

### **Informal Resolution**

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

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

Prior to implementing Informal Resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

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

### **Respondent Accepts Responsibility for Alleged Violations**

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

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

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

### **Negotiated Resolution**

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University. Negotiated Resolutions are not appealable.

### **Resolution Timeline**

Holy Family University will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

### **Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints persons to conduct the investigation, typically using a team of two Investigators, usually within two (2) business days of determining that an investigation should proceed.

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

The University reserves the right to exercise the utilization of external Investigators where it deems necessary or required. External Investigators will be held to the same training, bias and conflict of interest standards.

## **Impartiality**

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or Witness. The University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

## **Standard of Proof**

Holy Family University uses the preponderance of the evidence standard investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy occurred.

## **Investigation Process**

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

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

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

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

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

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

The Investigators typically take the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant.
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.

- Meet with the Complainant to finalize their interview/statement, if necessary.
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations.
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the University-provided pool or an Advisor of their choosing, present for all meetings attended by the party
- Provide each interviewed party and Witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included.
- The Investigators gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the Recipient does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigators may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.
- The Investigators will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigators should document all rationales for any changes made after the review and comment period.
- The Investigator shares the report with the Title IX Coordinator for their review and feedback.
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

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

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

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

### **Live Hearing Process**

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

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

The Title IX Coordinator will select an appropriate Decision-maker depending on whether the Respondent is an employee or a student. The University reserves the right to exercise the utilization of an external Decision-maker where it deems necessary or required. A Decision-maker will be held to the same standard of training.

The University will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an Informal Resolution process.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through remote video conferencing options. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors not within a party's control. All proceedings will be recorded through audio recording, audiovisual recording, and transcript. That recording and transcript will be made available to the parties for inspection and review.

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

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

The Decision-maker will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence. If the Decision-maker answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

#### Complainant and Respondent (The Parties)

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence.
- Holy Family University will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.

#### Hearing Facilitator

- Facilitator is the process administrator and as no decision-making role
- The Facilitators assures the hearing is conducted according to outlined procedural expectations.
- At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting Hearing Facilitator appointed by the Title IX Coordinator.
- The Hearing Facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.
- The Title IX Coordinator, or their designee, may serve in this role.

#### The Decision-maker

- The hearing body will consist of a single decision-maker
- The Decision-maker will not have served as the Title IX Coordinator, Title IX investigator, or Advisor to any party in the case, nor may any member of the Decision-maker serve on the appeals body in the case.
- The Decision-maker will not have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The Decision-maker will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties will have an opportunity to raise any objections regarding a Decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.
- The University reserves the right to exercise the utilization of an external Decision-maker where it deems necessary or required.

#### Advisor

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted



- to attend, but may not speak for the party, except for the purpose of cross-examination.
- In addition to selecting an advisor to conduct cross-examination, the parties may select an advisor who may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf.
- If neither a party nor their advisor appear at the hearing, Holy Family University will provide an advisor to appear on behalf of the non-appearing party.

#### Witnesses

- Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.

### Live Hearing Procedures

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

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- Decision-maker will open and establish rules and expectations for the hearing;
- Investigator Presents the Final Investigation Report;
- Decision-maker may ask questions of the Investigator(s);
- The Parties will each be given the opportunity to provide opening statements;
- Decision-maker will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after the Decision-maker conducts its initial round of questioning; During the Parties' cross-examination, the Decision-maker will have the authority to pause cross-examination at any time for the purposes of asking their own follow up questions; and any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Decision-maker. A Party's waiver of cross-examination does not prevent or prohibit the Decision-maker from using statements made by the Party or Witness.

The Investigator(s) will present a summary of the final investigation report, including items that are contested and those that are not, and may be subject to questioning by the Decision-maker. The Investigator(s) presence at the hearing will be limited to presentation of the investigation report and questioning by the Decision-maker and Parties. Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and Advisors and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded. Each Party's Advisor will conduct live cross-examination of the other Party or Parties and

witnesses. During this live-cross examination the Advisor will ask the other Party or Parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Evidence provided that is something other than a statement by the Party or witness may be considered. The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

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

Before any cross-examination question is answered, Hearing Board Chair will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the Decision-maker, may be deemed irrelevant if they have been asked and answered.

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 offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

The recording of the hearing will be available for review by the parties within three (3) business days, unless there are any extenuating circumstances. A copy of the recording of the hearing will not be provided to parties or advisors of choice under any circumstances.

### **Determination Regarding Responsibility**

The Decision-maker will deliberate in a closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The Hearing Facilitator may be invited to attend the deliberation by the Decision-maker, but is there only to facilitate procedurally, and not to address the substance of the allegations.

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

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

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

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within seven (7) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

## Sanctions

When there is a finding of responsibility on one or more of the allegations, the Title IX Coordinator, or their designee, will determine appropriate sanction(s).

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process, and is not shared until that time.

When there is a finding of responsibility on one or more of the allegations, the Title IX Coordinator may then consider the previously submitted party impact statements in determining appropriate sanction(s).

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

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

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

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

## Notice of Outcome

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. 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;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the Sexual Harassment and Nondiscrimination Policy, if any, the respondent has or has not violated.
5. For each allegation:
  - a. A statement of, and rationale for, a determination regarding responsibility;
  - b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
  - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
6. The recipient's procedures and the permitted reasons for the complainant and respondent to appeal.

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

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University.

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

### **Timeline of Determination Regarding Responsibility**

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Holy Family University within ten (10) business days of the completion of the hearing.

### **Finality**

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

### **Appeals**

Any party may file a Request for Appeal, but it must be submitted in writing to the Title IX Coordinator within seven (7) business days of the delivery of the Notice of Outcome.

A three-member appeal panel will be designated by the Title IX Coordinator. The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Appeals are limited to the following grounds:

- A. Procedural irregularity that affected the outcome of the matter;
- B. 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; and
- C. The Title IX Coordinator, Investigator(s), or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

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

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

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

Outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision.

## **Retaliation**

Holy Family University will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

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

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

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

Complaints alleging retaliation may be filed according to the Nondiscrimination Grievance Procedures.

## **Recordkeeping**

Holy Family University will maintain for a period of seven-years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The University will make these training materials publicly available on its website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

Holy Family University will also maintain any and all records in accordance with state and federal laws.

### **Disabilities Accommodations in the Resolution Process**

Holy Family University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to its resolution process.

Anyone needing such accommodations or support should contact the Deputy Title IX Coordinator, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

### **Revision of this Policy and Procedures**

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

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

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

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

## **CODE OF CONDUCT/ALLEGED VIOLATIONS OF NONDISCRIMINATION POLICY GRIEVANCE PROCESS**

Holy Family University will act on any formal or informal allegation or notice of violation of the policy on Sexual Harassment and Nondiscrimination that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in the Policy above. The procedures described below apply to all non sex-based allegations of harassment or nonsex-based allegations of discrimination on the basis of protected class status involving students, staff, faculty members, or third parties.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

### **Initial Assessment**

Following receipt of notice or a complaint of an alleged violation of this Policy, the Deputy Title IX Coordinator engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:

- If notice is given, the Deputy Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Deputy Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Deputy Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Deputy Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Deputy Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Deputy Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Deputy Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an informal resolution option is preferred, the Deputy Title IX Coordinator assesses whether the complaint is suitable for informal resolution, and may seek to determine if the Respondent is also willing to engage in informal resolution.
  - If a Formal Grievance Process is preferred, the Deputy Title IX Coordinator determines if the misconduct alleged falls within the scope of the Nondiscrimination Policy:
    - If it does, the Deputy Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue, based on the nature of the complaint.

Based on the initial assessment, the Holy Family University will initiate one of two responses:

- Informal Resolution – typically used for less serious offenses and only when all parties agree to Alternate Resolution, or when the Respondent is willing to accept responsibility for violating policy. This can also include a remedies-only response.
- Administrative Resolution – investigation of policy violation(s) and recommended finding, subject to a determination by the Director of Equity & Inclusion/Deputy Title IX Coordinator and the opportunity to appeal to an Appeal Panel.

The investigation and the subsequent Administrative Resolution determine whether the nondiscrimination policy has been violated. If so, the Recipient will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Deputy Title IX Coordinator. At any point during the initial assessment or formal investigation, if the Deputy Title IX Coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified. The Complainant may request that the Deputy Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Deputy Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

### **Right to an Advisor**

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

### **Resolution Processes**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with University policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below.

#### **Informal Resolution**

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Deputy Title IX Coordinator.

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

Prior to implementing Informal Resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.



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

## **Resolution Timeline**

Holy Family University will make a good faith effort to complete the resolution process within a sixty (60) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Deputy Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## **Administrative Resolution Process**

Administrative Resolution can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by the Sexual Harassment and Nondiscrimination Policy at any time during the process. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Deputy Title IX Coordinator will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least 48 hours in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Once the decision to commence a formal investigation is made, the Deputy Title IX Coordinator appoints persons to conduct the investigation, typically using a team of two Investigators, within two (2) business days of determining that an investigation should proceed.

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

The University reserves the right to exercise the utilization of external Investigators where it deems necessary or required. External Investigators will be held to the same training, bias and conflict of interest standards.

Notification will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official records, or emailed to the parties' designated email account.

Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notification should include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

The University aims to complete all investigations within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Deputy Title IX Coordinator, with notice to the parties as appropriate.

Investigations are completed expeditiously, normally within 10-20 business days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The University will make a good faith effort to complete investigations as

promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

### **Determination**

Within three (3) business days of receiving the Investigator's recommendation, the Deputy Title IX Coordinator reviews the report and all responses, and then makes the final determination on the basis of the preponderance of the evidence standard. The recommendation of the investigation should be strongly considered but is not binding on the Deputy Title IX Coordinator.

### **Notice of Outcome**

If the Respondent admits to the violation(s), or is found in violation, the Deputy Title IX Coordinator determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively to stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The Deputy Title IX Coordinator informs the parties of the determination within three (3) business days of the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are made in writing and will be emailed. Once emailed notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which the University is permitted to share pursuant to state or federal law, and the rationale supporting the essential findings to the extent the Recipient is permitted to share under state or federal law.

The notice will detail when the determination is considered final and will detail any changes that are made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found below.

### **Finality**

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

## Appeals

Students who wish to appeal are granted the opportunity through the appeals process. All appeal requests shall be directed in writing to the Dean of Students, or their designee, within five (5) business days of written notification of outcome. The appeal should be delivered to the Dean of Students via email. The appeal process is reserved for serious sanctions only. In the appeal letter, a student must clearly demonstrate that one or more of the following has occurred to be considered for an appeal:

1. Material failure to follow procedures of the Grievance Process that has affected the outcome.
2. New information sufficient to alter a decision that was not reasonably available at the time of the original hearing.
3. Sanction(s) was/were not consistent for the violation(s) of a University Policy.

Appeals submitted for other reasons or past the allotted time will not be considered. The Dean of Students determines if the appeal is warranted. The Dean of Students, along with the Appellate Board Members, will review all available information pertaining directly to the appeal, and shall make a decision within five (5) business days. The Appellate Board will consist of three (3) trained members. The Appellate Board may replace the sanction with another which may be more severe, less severe, or otherwise different, may remand the case for consideration, and/or may direct the case for a new administrative hearing.

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

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

Outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision.

## Retaliation

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

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

Complaints alleging retaliation may be filed according to the Nondiscrimination Grievance Procedures.

## Recordkeeping

Holy Family University will maintain any and all records in accordance with state and federal laws.

## **Disabilities Accommodations in the Resolution Process**

Holy Family University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to its resolution process.

Anyone needing such accommodations or support should contact the Deputy Title IX Coordinator, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

## **Revision of this Policy and Procedures**

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

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

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

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

## Appendix A: Glossary

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the recipient investigate the allegation.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when the University is in normal operation.
- *Directly Related Evidence* is evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
- *Education program or activity* means locations, events, or circumstances where Holy Family University exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- *Final Determination*: A conclusion by the preponderance of the evidence standard that the alleged conduct did or did not violate policy.
- *Finding*: A conclusion by preponderance of the evidence standard that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Grievance Process* means a method of formal resolution designated by the recipient to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- *Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Decision-maker or Panel* refers to those who have decision-making and sanctioning authority within the Recipient’s Formal Grievance process.
- *Investigator* means the person or persons charged by the University with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

- *Mandated Reporter* means an employee of the University who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of the Recipient explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the University.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Recipient* means a postsecondary education program that is a recipient of federal funding.
- *Relevant Evidence* is evidence that tends to prove or disprove an issue in the complaint.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the Recipient on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.
- *Title IX Coordinator* is at least one official designated by the University to ensure compliance with Title IX and the Recipient's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.