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- (4) "Dating Violence" means physical violence committed by a Dating Partner of the victim.
- (5) "Determination Regarding Responsibility" (which may be referred to below as the "Determination") means a written document issued by a Decision-Maker following a Live Hearing in which findings, conclusions, and Remedies and Disciplinary Sanctions (if a Respondent has been determined to have engaged in Sexual Harassment), are outlined, as further described in Section 3-6-143, below.
- (6) "Decision-Maker" means the person (who may not be the Title IX Coordinator or an investigator of the allegations of the Formal Complaint) who presides over the Live Hearing and issues a Determination Regarding Responsibility after the conclusion of the Live Hearing.
- (7) "Disciplinary Sanctions" means, and may include, (1) as to a University student, the Outcomes described in Section 3-2-203(8)(a) through (j) of the University Regulations and (2) as to a University employee, any action permitted by law and/or University policy, including but not limited to, placement in the employee's personnel file of the Determination Regarding Responsibility and any other information or documents compiled in the course of the Grievance Process in which the employee is a respondent, completion of required education, or of research or written materials relevant to Sexual Harassment of which the employee was found responsible, suspension (either with or without pay), demotion, or termination of or dismissal from employment with the University.
- (8) "Domestic Violence" means 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

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- (14) "Remedies" means actions of the University that are taken after the Grievance Process has been completed, and after a Determination Regarding Responsibility has been issued in which a Respondent has been determined to have engaged in Sexual Harassment and that imposes Disciplinary Sanctions on the Respondent in order to restore or preserve equal access to University Education Programs or Activities.
- (15) "Sexual Assault" means penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or an attempt to do any of the above, without the consent of the victim.
- (16) "Sexual Harassment" means conduct on the basis of sex occurring in the United States (a) in which a University employee conditions the provision of an aid, benefit, or service of the University on a person's participation in Unwelcome Sexual Conduct; (b) that constitutes Sexual Assault (as defined in 20 U.S.C. Section 1092(f)(6)(A)(v)); (c) that constitutes Dating Violence (as defined in 34 U.S.C. Section 12291(a)(10)); (d) that constitutes Domestic Violence (as defined in 34 U.S.C. Section 12291(a)(8)); and/or (e) that constitutes Stalking (as defined in 34 U.S.C. Section 12291(a)(9)).
- (17) "Stalking" means 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.

(18) "Supportive Measures"

- (b) A statement that the Respondent(s) is presumed not responsible for the alleged conduct and that a Determination Regarding Responsibility will be made at the conclusion of the Grievance Process;
- (c) A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, who may inspect and review evidence obtained as part of the investigation that is directly related to the allegations of the Formal Complaint pursuant to 34 C.F.R. Section ton 8 3 0 Td[o]-12.351

- (c) Specific circumstances prevent the University from gathering evidence sufficient to reach a Determination Regarding Responsibility as to the Formal Complaint or the allegations of Sexual Harassment in it.

- (3) **Notice of Dismissal** Upon dismissal by the University as required or permitted above, the University shall send promptly written notice of the dismissal and the reasons for the dismissal to each party simultaneously.

### **3-6-139 Informal Resolution of a Formal Complaint**

- (1) **Procedure** After a Formal Complaint is filed that alleges Sexual Harassment and at any time prior to the issuance of a Determination Regarding Responsibility by the Decision-Maker, the University may offer to facilitate informal resolution between/among the parties by which the parties agree voluntarily to resolve the allegations contained in the Formal Complaint, including but not limited to allegations of Sexual Harassment, without proceeding further in the Grievance Process. The University, as part of the offer of informal resolution must:

- (a) Provide each party with the Notice of Allegations described in Section 3-6-137, above;
- (b) Obtain each party's voluntary written consent to engage in the informal resolution process;
- (c) Inform each party in writing that:
  - (i) If the parties reach an informal resolution that the terms and conditions of such resolution must be in writing and will preclude the parties from resuming the Grievance Process with respect to the allegations of Sexual Harassment in the Formal Complaint; and
  - (ii) Each party has the right, at any time, to withdraw from the informal resolution process and resume the Grievance Process with respect to the Formal Complaint.

- (2) **When Informal Resolution may not be Offered or Facilitated by the University** The University shall not offer to facilitate or facilitate the informal resolution process to resolve allegations of a Formal Complaint that a University employee engaged in Sexual Harassment of a University student, provided, however, that this prohibition does not preclude the parties from engaging voluntarily in discussions between them that results in a resolution of the allegations and notification by the Complainant that they wish to withdraw the Formal Complaint or any of the allegations in it.

- (1) **Responsibility for Conducting the Investigation** The Title IX Coordinator or their designee shall investigate the allegations of Sexual Harassment in the Formal Complaint as described in Section 3-6-133(4)(a) and (c), above, and the burden of proof is on the University to gather evidence sufficient to reach a Determination Regarding Responsibility as to the Respondent(s).
- (2) **Procedures During the Investigation** During the investigation, the University may not restrict the ability of the parties to discuss the allegations under investigation or to gather and present relevant evidence and shall;
  - (a) Provide each party with the opportunity to have an advisor of their choice, who may be, but is not required to be, an attorney, who may inspect and review evidence obtained as part of the investigation that is directly related to the allegations of the Formal Complaint pursuant to 34 C.F.R. Section 106.45(b)(5)(i), be present during any hearings, investigative interviews or other meeting at which the parties may be present during the Grievance Process to advise their respective party, provided however, other than at the Live Hearing, the advisor may not otherwise participate in, make any presentation during, or submit any written materials on behalf of the party for whom they are the advisor;
  - (b) Provide each party who is expected to participate in the Grievance Process written notice of the date, time, location, participants, and purpose(s) of all hearings, investigative interviews or other meetings, with sufficient time for the parties to prepare to participate;
  - (c) Provide each party an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint including evidence upon which the University does not intend to present in the Live Hearing with respect to the Decision-Maker's issuance of their Determination Regarding Responsibility, as well as inculpatory or exculpatory evidence whether obtained from a party or other source;
  - (d) Provide each party and their respective advisor, if any, the evidence subject to inspection and review in electronic format or hard copy;
  - (e) Provide each party at least ten (10) days to submit a written response as to

- (b) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, as well as inculpatory and exculpatory evidence;
- (c) Permit each party's advisor to ask the other party and any witnesses only relevant questions and follow-up questions, including questions challenging the credibility of the parties and any witnesses as further described in Section 3-6-142(3), below;
- (d) Permit only relevant documentary and other physical materials to be recei-



Responsibility (“Determination”) regarding the allegations of Sexual Harassment in the Formal Complaint, which Determination shall apply the “preponderance of the evidence” standard. The Determination must:

- (a) Describe the allegations potentially constituting Sexual Harassment;
- (b) Describe the procedural steps taken from the Filing of the Formal Complaint through the issuance of the Determination including any:
  - (i) Notifications to each party;
  - (ii) Interview of the parties and witnesses;
  - (iii) Site visits;
  - (iv) Methods used to gather other evidence; and
- (c) State the Decision-Maker’s findings of fact supporting the Determination;
- (d) State the conclusions regarding the application of the relevant University policies and relevant provisions of the DCP to the facts;
- (e) State the result as to each allegation and the rationale for such result.

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(2) **Deadline for Filin**