



# IMMACULATA UNIVERSITY

## Sexual Harassment, Including Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation Policy

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## **PURPOSE AND STATEMENT OF NON-DISCRIMINATION:**

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Immaculata University is committed to establishing and maintaining a safe and nondiscriminatory educational environment in which all individuals are treated with respect and dignity. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972 (“Title IX”), a federal law that provides that: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964 (“Title VII”), Pennsylvania state law and other applicable statutes. The University does not permit discrimination or harassment in its programs and activities on the basis of race, color, national origin, ancestry, sex, gender, gender identification, sexual orientation, disability, age, religion, physical and/or mental disability, medical condition, veteran status, marital status or any other characteristic protected by institutional policy or state, local or federal law.

In addition, Title IX prohibits retaliation by the University, employee, student or other Immaculata University community member against any individual for exercising their rights or responsibilities as required under the Violence Against Women Act (VAWA).

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) is federal legislation that requires educational institutions that participate in federal student aid programs to maintain and disclose non-identifying information about the crimes that occur on or near their campus. In compliance with the Clery Act, the University will publish *non-identifying* information about Clery criminal offenses and annually submit the University’s Annual Security Report to the U.S. Department of Education. This report is available on our website [www.immaculata.edu](http://www.immaculata.edu) or by contacting the Department of Campus Safety and Protection.

All members of the University community have an obligation to assist in preventing Prohibited Conduct as defined in this policy Responsibilities include:

- Participating in periodic training to learn how to recognize and report concerns
- Conducting themselves in a manner that does not violate this policy
- Intervening when possible to prevent harassment of another
- Reporting incidents and assisting all reporting parties with their report
- Respecting the privacy rights and confidentiality rights of those involved
- Cooperating in University investigative and disciplinary procedures

When the University becomes aware of allegations of Prohibited Conduct, it will take prompt, fair, and effective action and respond equitably to all allegations of sexual misconduct. Any person found responsible for violations of this policy will face disciplinary actions up to and including dismissal or expulsion from the University. Any acts that are violations of the Pennsylvania Crimes Code may also be prosecuted by the appropriate law enforcement agency.

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Anyone making a report, filing a formal complaint, or participating in the investigation or resolution of an allegation of Prohibited Conduct is protected by law and this Policy from retaliation. The University will take prompt responsive action to all reports of retaliation. The University will review the *Sexual and Gender-Based Harassment Policy* on a bi-annual basis in order to capture evolving legal requirements.

## **SCOPE AND APPLICABILITY:**

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Immaculata University prohibits harassment of and discrimination against any and all community members. This policy applies to all members of our community, including students, faculty, staff, administrators, members of the board of trustees, volunteers, independent contractors, and visitors.

The primary purposes of this Policy are to: (1) define, eliminate, prevent, and remedy the effects of Prohibited Conduct (2) identify care, support, and reporting options for students and employees; (3) explain the obligations of employees to report Prohibited Conduct to the University; (4) identify the procedures the University will follow to thoroughly, equitably, and promptly investigate and resolve reports of Prohibited Conduct; and (5) strictly prohibit retaliation. Additional information about the University's procedures and training and prevention programs can be found online at [immaculata.edu/about/title-ix-and-non-discrimination/](http://immaculata.edu/about/title-ix-and-non-discrimination/).

This policy applies to the education programs and activities of Immaculata University and to conduct that takes place on the campus or on property owned or controlled by the University, or at University-sponsored events. The Respondent must be a member of the Immaculata community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the University's educational program. Immaculata University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest.

Regardless of where the conduct occurred, Immaculata 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.

## **EFFECTIVE DATE**

The effective date of this Policy is August 14, 2020. This policy is implemented on an supportive basis for renewable six-month intervals. Should a court strike down, either temporarily or permanently, any terms or provisions of these policies and procedures, Immaculata 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, Immaculata University reserves the right to withdraw these supportive policies and procedures and immediately reinstate previous policies and/or procedures or revise them accordingly.

## **ACADEMIC FREEDOM AND FIRST AMENDMENT RIGHTS**

This Policy is not intended to, and will not be used to, infringe on academic freedom or to censor or punish students, faculty, or staff who exercise their First Amendment rights, even though such expression may be offensive or unpleasant.

## THE ROLE OF THE TITLE IX COORDINATOR AND THE TITLE IX REVIEW TEAM

The Title IX Coordinator is charged with monitoring the University's compliance with Title IX; ensuring appropriate education and training; response; coordinating the University's investigation process, and resolution of all reports under this Policy; and ensuring appropriate actions to eliminate Prohibited Conduct, prevent its recurrence and remedy its effects. The Title IX Coordinator is available to meet with any student, employee or third party to discuss this Policy or the accompanying procedures. The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest.

The University has also designated a Deputy Title IX Coordinator who may assist the Title IX Coordinator in the implementation of these responsibilities. The Title IX Coordinator and Deputy Title IX Coordinator receive appropriate training to implement their responsibilities.

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

Janelle Cronmiller | Title IX Coordinator

Villa Maria 219

484.323.3982

[jcronmiller@immaculata.edu](mailto:jcronmiller@immaculata.edu) / [titleixcoordinator@immaculata.edu](mailto:titleixcoordinator@immaculata.edu)

Dennis Dougherty | Deputy Title IX

Lourdes 2

484.323.3270

[ddougherty@immaculata.edu](mailto:ddougherty@immaculata.edu)

*Inquiries may be made externally to:*

Office for Civil Rights (OCR)

U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C. 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

TDD#: (877) 521-2172

Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr>

For complaints involving employees: [Equal Employment Opportunity Commission](#) (EEOC)

### **TITLE IX REVIEW TEAM**

The role of the University Title IX Review Team is to review the information presented in the final investigative report and to determine if an individual(s) violated the University policy and, if so, to determine an appropriate sanction. Members of this team will consist of representatives from various University Departments and limited to a select group of individuals who "need to know" in order to implement procedures under this Policy. An appropriate hearing panel of three (3) members from the University Title IX Review Team will be formed for each case.

## MANDATORY REPORTERS: OFFICIALS WITH AUTHORITY (OWA’S)

It is important to understand that all University employees who are not designated as a confidential resource under this Policy, including faculty members, are “Officials with Authority (OWA’s)” and required to disclose a report of Prohibited Conduct or alleged Prohibited Conduct to the Title IX Coordinator.

Student employees who are required to share reports of Prohibited Conduct with the Title IX Coordinator include; Graduate Assistants, Resident Assistants, Community Assistants, and Programming Assistants. These designated student employees are required to share with the Title IX coordinator all information about which they are aware, whether obtained directly or indirectly, about any occurrence or potential occurrence of Prohibited Conduct and alleged Prohibited Conduct, including dates, times, locations and names of the parties and witnesses.

## HOW TO GET HELP IF YOU HAVE BEEN SUBJECT TO SEXUAL HARASSMENT AND/OR RETALIATION

Any member of the University community who has experienced Prohibited Conduct is urged to seek immediate medical assistance and/or contact law enforcement. Below is a listing of available emergency response, medical treatment and confidential counseling options.

Emergency Response	
<b>Emergency Law Enforcement Response</b>	☎ 911
<b>Immaculata University Campus Safety</b> • Lourdes Hall, Terrace Level	☎ 610-854-2451 🕒 24/7
<b>Paoli Hospital</b> • 255 W. Lancaster Ave Paoli, PA 19301	☎ 484-565-1000 🕒 24/7
<b>Chester County Hospital</b> • 701 E Marshall St. West Chester, PA 19380	☎ 610-431-5000 🕒 24/7
<b>Bryn Mawr Hospital</b> • 130 S. Bryn Mawr Ave Bryn Mawr, PA 19010	☎ 484-337-3000 🕒 24/7
<b>Phoenixville Hospital</b> • 140 Nutt Rd. Phoenixville, PA 19460	☎ 610-983-1222 🕒 24/7
<b>Immaculata University Health Services</b> • Bruder Center	☎ 484-323-3500 🕒 8:30am – 4:30pm M-F

**Due to the limited availability of SANE (Sexual Assault Nurse Examiners) nurses shared among the hospitals, it is recommended that the individual call the Crime Victims’ Center of Chester County 24 hour hotline (610-692-7273) to locate which hospital a SANE nurse is on duty. A call can then be made to that hospital to confirm time of arrival to be sure the SANE nurse remains on duty for her or his arrival.**

## PRIVACY AND CONFIDENTIALITY





The University is committed to protecting the privacy of all individuals involved in alleged Prohibited Conduct reports. Information will be kept private by the University unless







disclosure is required by law; thus, it will be shared only with those University officials with a legitimate interest in order to assist in the investigation and/or in the resolution of the Complainant’s complaint.

Under this Policy, privacy should be distinguished from confidentiality.

### CONFIDENTIALITY

If a Complainant desires to communicate with someone who, by law, can keep information confidential, then the Complainant should contact one of the resources outlined below. Confidential Resources will not notify the University of the incident of Prohibited Conduct, without expressive permission from the individual or if required by specific legal exceptions. The trained professionals designated below can provide counseling, information and support under legally protected confidentiality. Because these relationships involve privileged conversations, confidential resources will not share information about a patient/client (including whether or not that individual has received services) with the Title IX Coordinator or any other employee of the University without the individual’s written permission or when there is an immediate threat of serious harm to a person. They may, however, submit non-identifying information about the incident for purposes of making a statistical report under the Clery Act.

On-Campus Confidential Resources	
<b>Immaculata University Counseling Center</b> • Bruder Center	 484-323-3502  8:30am – 4:30pm M-F
<b>Pastoral Counseling</b> • Campus Ministry	 484-323-3339  8:30am – 4:30pm M-F

Off-Campus Confidential Resources	
<b>Crime Victim’s Center of Chester County (CVC)</b> • 135 W. Market Street West Chester, PA 19382	 610-692-7273  24/7  <a href="http://www.cvcofcc.org">www.cvcofcc.org</a>
<b>Domestic Violence Center of Chester County</b> • 255 W. Lancaster Ave Paoli, PA 19301	 610-431-1430  24/7  <a href="http://www.dvcc.org">www.dvcc.org</a>

### PRIVACY

Information communicated to a Title IX Coordinator or a Responsible Employee may not be able to be kept confidential but will be kept as private as possible, which means that the information will initially be shared only with the University employees whom the Title IX Coordinator determines need to be involved in responding to the incident, or as required or permitted by law.

### TIMELY NOTIFICATION

If a report of Prohibited Conduct discloses a serious and immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the community. This notification will not include personally identifiable information

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concerning the Complainant. The University may also share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions. All University proceedings are conducted in compliance with the requirements of Title IX, the Clery Act, the Campus SaVE Act, FERPA, state and local law and University Policy. No information shall be released from proceedings under this Policy except as required or permitted by law or University Policy.

## **ONLINE SEXUAL HARASSMENT AND/OR RETALIATION**

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The policies of Immaculata University are written and interpreted broadly to include online manifestations of any of the prohibited behaviors listed below, when those behaviors occur in or have an effect on the Complainant's education program and activities or use Immaculata University networks, technology, or equipment.

Although Immaculata University may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to Immaculata University, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Immaculata community.

## **PROHIBITED CONDUCT**

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The University prohibits sexual misconduct, including sexual assault, stalking, intimate partner violence and retaliation. The University will not tolerate Prohibited Conduct of any form. Such violations are subject to any combination of sanctions, including expulsion or suspension for students, or termination for employees. The following conduct is specifically prohibited conduct under this Policy:

### **SEXUAL HARASSMENT**

Unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent, and pervasive that it, unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational program and/or activities, and is based on power differentials (*quid pro quo*), the creation of a hostile environment, or retaliation.

*Examples include:* an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence; domestic partner violence; stalking; and gender-based bullying.

### **SEXUAL ASSAULT**

Encompasses nonconsensual sexual penetration; nonconsensual sexual contact; and conduct that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

### NONCONSENSUAL SEXUAL CONTACT

Sexual contact, however slight, performed upon another person that occurs without that person's consent including; intentional physical contact with another person's breasts, buttocks, groin, or genitals, whether clothed or unclothed or intentional contact for the purpose of sexual gratification or when such body parts are touched in a sexual manner.

### NONCONSENSUAL SEXUAL PENETRATION

Sexual penetration, however slight, performed upon another person that occurs without that person's consent including; penetration of a vagina or anus by a penis, object, tongue, finger, or other body part; or contact between the mouth of one person and the genitals or anus of another person.

### INCEST

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

### STATUTORY RAPE

Sexual intercourse with a person who is under the statutory age of consent. In Pennsylvania, individuals under 13 years of age can never consent to intercourse; individuals younger than 16 years of age can never consent to intercourse with a partner more than four years their senior.

## **INTIMATE PARTNER VIOLENCE**

Act of violence, or a threat of an act of violence, committed by a person who is or has been in a sexual, dating, spousal, romantic, or other intimate relationship with the Complainant.

### DATING VIOLENCE

Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Alleged Victim. The existence of such a relationship will be determined based on a consideration of the length and type of relationship and the frequency of interaction.

### DOMESTIC VIOLENCE

Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a current or former spouse or intimate partner of the Complainant or by person the Complainant shares a child with or by person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Pennsylvania.

## **SEXUAL EXPLOITATION**

Sexual Exploitation means to take advantage of another person without consent, including but not limited to:

- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person;
- Causing the prostitution of another person;
- Recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person;

- Allowing third parties to observe private sexual acts;
- Engaging in voyeurism;
- Knowingly or recklessly exposing another person to a significant risk of sexually transmitted infection, including HIV.

## STALKING

Interpersonal misconduct that means engaging in a course of conduct directed at a specific person(s) that would cause a reasonable person under similar circumstances and with similar identities to the Complainant to fear for his or her safety or the safety of others; or suffer substantial emotional distress. Course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about another person or interferes with another person.

Stalking includes cyber-stalking, a particular form of stalking in which electronic media, such as the internet, social networks, blogs, cell phones, texts or other similar devices may be used to pursue, harass, monitor or to make unwelcome contact with another person in an unsolicited fashion.

*Examples Include:* Unwelcome and repeated visual or physical proximity to a person; repeated oral or written threats; extortion of money or valuables; unwelcome/unsolicited written communication, including letters, cards, emails, instant messages and messages on on-line bulletin boards; unwelcome/unsolicited communications about a person, their family, friends or co-workers; sending/posting unwelcome and/or unsolicited messages with another username; or implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

## FORCE, COERCION, INCAPACITATION, AND ALCOHOL AND OTHER DRUGS

Understanding the effect of force, coercion, incapacitation and alcohol or drugs on affirmative consent.

### CONSENT

Consent means words or actions, freely, unambiguously and actively given by each party throughout a sexual encounter, which demonstrate each party's willingness and agreement to continue to participate in agreed-upon sexual conduct. Consent cannot be given when:

- a person's judgment is substantially impaired by alcohol or drugs or otherwise incapacitated;
- intimidation, coercion or threats are involved;
- physical force is used;
- a physical or mental condition is present such that the person cannot knowingly or voluntarily give consent; or
- a person has not achieved the age required for consent, as defined by state law.

An objective standard will be used in determining whether a person's judgment is "substantially impaired" by alcohol or drugs, or a physical or mental condition as described above is present. That is, consent is not valid when:

- From the standpoint of a reasonable person, the Respondent knew, or reasonably should have known, that the person's judgment was substantially impaired as a result of alcohol or drugs or was otherwise incapacitated, or that the person's physical or mental condition would prevent knowing and voluntary consent; or
- The person's judgment was, in fact, substantially impaired as a result of alcohol, drugs, or the person was incapable of providing knowing or voluntary consent due to a physical or mental condition.

Silence, non-communication, or a lack of resistance does not imply consent. Previous relationships or consent do not imply consent to future sexual conduct. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Consent can be rescinded at any time.

The use of alcohol or drugs does not minimize or excuse a person's responsibility for committing sexual misconduct, or for determining whether another is capable of giving consent, as described above.

#### FORCE

Use or threat of physical force or intimidation, to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

#### COERCION

Use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. Coercion may be emotional, intellectual, psychological or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

#### INCAPACITATION

Inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious or unaware that sexual activity is occurring. An individual who is incapacitated lacks the ability to make informed, rational judgments and decisions and, therefore, cannot affirmatively consent to sexual activity.

A person may be considered incapacitated and unable to give affirmative consent if the person cannot appreciate the who, what, where, when, why or how of a sexual interaction. A person who is incapacitated may not be able to understand one or both of the following questions: "Do you know where you are?" or "Do you know how you got here?" Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Engaging in sexual activity with an individual that Respondent reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is a violation of this Policy.

### ALCOHOL OR DRUGS

The University considers sexual contact while under the influence of alcohol or drugs to be risky behavior. Alcohol and drugs impair a person's decision-making capacity, awareness of consequences and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

The perspective of a reasonable person will be the objective basis for determining whether a Respondent should have been aware of the extent to which the use of alcohol or drugs impacted a Complainant's ability to give consent.

### RETALIATION

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Immaculata University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Immaculata University any member of Immaculata's community are prohibited from intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or 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 policy and procedure. The exercise of rights protected under the First Amendment does not constitute retaliation.

### REPORTING PROHIBITED CONDUCT AND/OR RETALIATION

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All reports of Prohibited Conduct will result in prompt assessment of risk of harm to individuals or to the campus community and will take any necessary steps to address those risks. The University encourages the Complainant to pursue criminal action for incidents of Prohibited Conduct that may also be crimes under state criminal statutes. The University will assist the Complainant, at their request, in contacting the appropriate law enforcement agency and will cooperate with law enforcement agencies if a Complainant pursues the criminal process.

Notice or complaints of prohibited conduct 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:  
Janelle Cronmiller | Title IX Coordinator  
Villa Maria 219  
1145 W King Road

Immaculata, PA 19345  
484.323.3982

[jcronmiller@immaculata.edu](mailto:jcronmiller@immaculata.edu) / [titleixcoordinator@immaculata.edu](mailto:titleixcoordinator@immaculata.edu)

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.

2) Report online, using the reporting form posted at:

<https://app.smartsheet.com/b/form/f26ba40d2fa840098e8791894da2083a>. Anonymous reports are accepted but may limit the University's ability to investigate. Immaculata University tries to provide supportive measures to all Complainants, which is not possible 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 Recipient to discuss and/or provide supportive measures.

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 Immaculata University investigate the allegation(s).

## INITIAL ASSESSMENT

If the potential complainant wishes to proceed with a resolution process, they will submit a signed written complaint to the Title IX Coordinator. Upon receipt the Title IX Coordinator will conduct an initial Title IX assessment. The initial assessment will consider the nature of the alleged conduct, the safety of the individual and of the University community, the Complainants' expressed preference for resolution and the necessity for any supportive remedies or accommodations to protect the safety of the Complainant, Respondent and the University community.

As part of the initial assessment, the Title IX Coordinator will:

- Assess the nature and circumstances of the allegation;
- Address the immediate physical safety and emotional well-being of the Complainant;
- Determine the need for a timely warning as required by the Clery Act;
- Ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is a minor (under 18), contact the appropriate child protective service agency;
- Assess for pattern evidence or other similar conduct;
- Advise of the right to contact law enforcement and seek medical treatment;
- Advise of the importance of preservation of evidence;
- Provide information about on- and off-campus resources;
- Discuss appropriate supportive measures and remedies;
- Provide an explanation of the procedural options, including Informal resolution and Formal Resolution;
- Discuss the Complainant's expressed preference for the manner of resolution and any barriers to proceeding;
- Explain the University's Policy prohibiting retaliation.

Following the initial assessment, the Title IX Coordinator, or his/her designee may:

- (1) seek Informal Resolution that does not involve disciplinary action, under the Sexual and Gender-Based Harassment Policy against a Respondent; or,
- (2) seek Formal Resolution by initiating an investigation to determine if disciplinary action is warranted.

Resources are available for students and employees, whether as Complainant or Respondent, to provide support and guidance throughout the investigation and resolution of the complaint.

## **SUPPORTIVE MEASURES**

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Immaculata University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged prohibited conduct 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 prohibited conduct 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.

Immaculata University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. Immaculata 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:

- Access to counseling services and assistance in setting up initial appointment, both on- and off-campus;
- Imposition of a University No-Contact Order;
- Rescheduling of exams and assignments;
- Providing alternative course completion options;
- Change in class schedule, including the ability to transfer course sections or withdrawal from a course without penalty;
- Change in work schedule or job assignment;
- Change in student's University housing;
- Voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;
- Providing academic support services, such as tutoring;
- Timely warnings;
- University-imposed administrative leave or separation;

- Supportive suspension; and
- Any other remedy which can be tailored to the involved individuals to achieve the goals of this Policy.

These actions are not a presumption of responsibility for a violation of Prohibited Conduct and may be imposed whether or not formal disciplinary action is sought by the Complainant/Respondent or the University. The Complainant and Respondent will be notified in writing of any and all Supportive Measures.

## **RIGHTS OF THE COMPLAINANT AND RIGHTS OF THE RESPONDENT**

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### **RIGHTS OF THE COMPLAINANT**

- A Complainant may have their Advisor present during the Grievance Process.
- A Complainant will be afforded similar and timely access to any information that will be used during the Grievance Process and Hearing.
- A Complainant will be given periodic status updates throughout the process.
- A Complainant will have equal opportunity to present relevant witnesses and other information during the Grievance Process and Hearing.
- A Complainant will never be questioned directly by or be in the presence of the Respondent during the Grievance Process and Hearing.
- A Complainant may submit a list of questions related to the alleged incident to the Investigator that they feel the Respondent should be asked during the Grievance Process. The Investigator may use their discretion in evaluating the relevancy of the questions submitted and may choose to reframe or omit them as necessary.
- A Complainant may not have their irrelevant past conduct, including sexual history, discussed during the Grievance Process and Hearing.
- A Complainant has the right to know the outcome of the Grievance Process and Hearing.
- A Complainant has the right to appeal the outcome of the Grievance Process and Hearing.
- A Complainant has the right to be treated with respect during the Grievance Process and Hearing.
- A Complainant has the right to be notified of available counseling, mental health, medical, or student services for victims of sexual assault or gender-based misconduct both on campus and in the community.
- A Complainant has the right to preservation of privacy, to the extent possible and allowed by law.

### **RIGHTS OF THE RESPONDENT**

- A Respondent may have their Advisor during the Grievance Process.
- A Respondent will be afforded similar and timely access to any information that will be used during the Grievance Process and Hearing.
- A Respondent will be given periodic status updates throughout the Grievance Process.



- A Respondent will have equal opportunity to present relevant witnesses and other information during the Grievance Process and Hearing.
- A Respondent will never be questioned directly by or be in the presence of the Complainant during the process.
- A Respondent may submit a list of questions related to the alleged incident to the Investigator that they feel the Complainant should be asked during the Grievance Process. The Investigator may use their discretion in evaluating the relevancy of the questions submitted and may choose to reframe or omit them as necessary.
- A Respondent may not have their irrelevant past conduct, including sexual history, discussed during the Grievance Process and Hearing.
- A Respondent has the right to know the outcome of the Grievance Process and Hearing.
- A Respondent has the right to appeal the outcome of the Grievance Process and Hearing.
- A Respondent has the right to be treated in a respectful and unbiased manner during the Grievance Process and Hearing.
- A Respondent has the right to be informed of and have access to campus resources for medical, counseling, and advisory services.
- A Respondent has the right to preservation of privacy, to the extent possible and allowed by law

## **EMERGENCY REMOVAL**

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Immaculata 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 oneself or any member of the Immaculata community.

This risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Intervention Team. In all cases in which an emergency removal is imposed, the student 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.

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 Support Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

A Respondent may be accompanied by a Support Advisor of their choice when meeting with the Title IX Coordinator. 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.

The Title IX Coordinator has sole discretion under this policy to implement 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.

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

There is no appeal process for emergency removal decisions.

## INFORMAL RESOLUTION

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The Complainant may request informal resolution in place of Title IX Investigation and formal resolution. This form of resolution is voluntary and may be used at any point prior to reaching determination of responsibility as long as a formal complaint has been filed. **Informal resolution may not be used where the alleged Prohibited Conduct involves Sexual Assault or an Employee is the Respondent.** The Title IX Coordinator will balance this request with the University's dual obligation to provide a safe and non-discriminatory environment for all University community members and to remain true to principles of fundamental fairness that require notice and voluntary, written consent to use the Informal resolution process.

If the Complainant and Responding parties agree to proceed with informal resolution, the University will not compel the parties to confront one another face-to-face and each party will be provided written notice of the following; the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, the right of any party to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequence resulting from participating in the in the informal resolution process, including the records that will be maintained or could be shared.

With any form of informal resolution, each party has the right to choose and consult with a support advisor. The parties may be accompanied by their respective support advisors at any meeting or proceeding held as part of informal resolution. While the support advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

Any form of informal resolution and any combination of interventions and remedies may be utilized. If an agreement acceptable to the University, the Complainant and the Respondent, is reached through informal resolution, the terms of the agreement are implemented, and the matter is resolved and closed. If an agreement is not reached, and the Title IX Coordinator determines that further action is necessary, or if a party fails to comply with the terms of the informal resolution, the matter may be referred for an investigation and formal resolution under these procedures.

## TITLE IX INVESTIGATION AND FORMAL RESOLUTION:

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When the Complainant or Title IX Coordinator (or designee) concludes that formal resolution may be appropriate, the Title IX Coordinator will initiate an investigation and issue the notice of investigation and allegations. The Title IX Coordinator will designate an Investigative Team that has specific training and experience investigating allegations of Prohibited Conduct. The Investigative Team will typically consist of two University employees. Any investigator chosen to conduct the investigation will be impartial and free of any actual conflict of interest.

The investigative team will conduct the investigation in a manner appropriate to the circumstances of the case. The investigative team will coordinate the gathering of information from the Complainant, the Respondent and any other individuals who may have information relevant to the investigation. The investigative team will also gather any available physical evidence, including documents, communications between the parties and other electronic records as appropriate. In gathering the facts, the investigative team may consider prior allegations of, or findings of responsibility for, similar conduct by the Respondent, to the extent such information is relevant to the investigation.

The Complainant and Respondent will have an equal opportunity to be heard, to submit information and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident. Witnesses cannot participate solely to speak about an individual's character. Witnesses are expected to cooperate with the investigative team and any persons charged with implementing this Policy. If a witness fails to appear for a scheduled appointment, knowingly provides false information and/or otherwise refuses to cooperate, the witness may be subject to separate disciplinary action under the University's Student Code of Conduct, Employee Handbook and/or Faculty Handbook, as applicable.

Using the standard of preponderance of evidence, the investigators will recommend whether or not there has been a violation of this policy. The investigators will specify which alleged violations of Prohibited Conduct and, if applicable, which other, related alleged misconduct should be adjudicated.

The investigative report will be distributed to the Title IX Coordinator and Deputy Title IX Coordinator. The investigative report will be made available for both the Complainant and Respondent to review in person during a scheduled appointment with Title IX Coordinator. Parties will have ten (10) calendar days from review and submit a written response to the investigative report before the report is considered finalized.

For investigations involving faculty and/or staff, the Title IX Coordinator reserves the right to add to or modify the alleged violations specified by the Investigators with additional information that may be gained through the investigative process.

## **ACCEPTANCE OF RESPONSIBILITY**

After receiving the formal charge(s) from the Title IX Coordinator or Deputy Title IX Coordinator, the Respondent may choose not to contest the charge(s) and give up the right to a Hearing by accepting responsibility for all charges. If a Respondent accepts responsibility, the Complainant will be notified in writing and both parties will have the opportunity to submit written information for consideration by the Deputy Title IX Coordinator (or designee); a Complainant may submit an impact statement, and a Respondent may submit a mitigation statement. The Respondent must meet with an Advisor prior to the Deputy Title IX Coordinator agreeing to the Respondent accepting responsibility for the allegations.

The Deputy Title IX Coordinator will impose the appropriate sanction(s) (see below for guidelines and range of permissible sanctions). The Complainant and Respondent will be simultaneously notified of the sanction(s) and rationale for the sanction in writing, and this sanction decision may only be appealed by both parties based on Severity of Sanction. If there is no appeal by either party, the sanction imposed by Deputy Title IX Coordinator will be final.

## **WITHDRAWAL FROM THE UNIVERSITY**

If a Respondent chooses to withdraw from the University at any time during the Grievance Process, the Title IX Coordinator (or designee) has the discretion to continue or pause

(temporarily or indefinitely) the Process. If a hearing is held, the Deputy Title IX Coordinator will still make a determination if the Respondent did or did not violate the Policy. The standard of proof remains preponderance of evidence.

#### HEARING PROCESS AND DELIBERATIONS:

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#### **HEARING PROCESS AND DELIBERATIONS:**

The Complainant, Respondent, and the Review Team will receive the final investigative report ten (10) calendar days in advance of the hearing.

The Complainant and Respondent will *NOT* be in the same room at the same time during the live hearing. The party who is not before the Review Team will have audio access to the hearing when the other party appears. The Complainant, Respondent, and all witnesses will be granted the opportunity to appear before the Review Team and make an oral statement regarding the facts.

Both the Complainant and the Respondent will have the opportunity for cross-examination to permit all parties to ask the other parties and witnesses all relevant and follow up questions. Cross examination may only be performed by the party's support advisor. Questions must be first evaluated by the Review Team for relevance before being permitted, and any questions rejected will be explained on the record. Hearings will not be unreasonably postponed due to the unavailability of the Complainant's or Respondent's support advisor of choice. Negative inferences will not be drawn from failure to participate, only from the evidence that is or is not available.

After the hearing, the Review Team will convene to deliberate and render a decision, by majority vote, regarding whether or not the Respondent has violated the University Policy by a preponderance of the evidence. A recording of the live hearing will be provided to the Complainant and the Respondent within ten (10) calendar days of conclusion of the hearing.

#### SANCTIONS AND REMEDIES

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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.

#### **STUDENT SANCTIONS/RESPONSIVE ACTIONS**

Any student found responsible for violating the policy on **Inappropriate Sexual Conduct, specifically nonconsensual physical contact of a sexual nature (where no intercourse has occurred)** will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous violations of the Community Standards for Student Conduct.

Any student found responsible for violating the policy on **Sexual Assault (nonconsensual or forced sexual intercourse)** will likely face a recommended sanction of suspension or expulsion. Any student found responsible for violating the policy on **Sexual Exploitation or Sexual Harassment** will likely receive a recommended sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous violations of the

## Community Standards for Student Conduct.

Any student found responsible for violating the policy on **Stalking** will likely face a recommended sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous violations of the Community Standards for Student Conduct.

Any student found responsible for violating the policies of **Domestic or Dating Violence** will likely receive a recommended sanction ranging from suspension to expulsion, depending on the severity of the incident. The Dean of Students/Deputy Title IX Coordinator reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior.

Other remedies may also be offered and provided. Appropriate remedies may include, but are not limited to:

- providing an escort on campus;
- assistance with academics, including rescheduling exams and assignments,
- receiving an incomplete in a course,
- facilitating a classroom change;
- housing assignment relocation;
- Restriction of campus access for the alleged Respondent (restricted from specific buildings, areas, etc.);
- no-contact orders;
- campus employment reassignment;
- And counseling referrals.

## EMPLOYEE SANCTIONS/RESPONSIVE ACTIONS

Responsive actions for an employee who has engaged in harassment and/or retaliation include:

WARNING VERBAL OR WRITTEN

PERFORMANCE IMPROVEMENT PLAN/MANAGEMENT PROCESS

ENHANCED SUPERVISION, OBSERVATION, OR REVIEW

REQUIRED COUNSELING

REQUIRED TRAINING OR EDUCATION

PROBATION

LOSS OF OVERSIGHT OR SUPERVISORY RESPONSIBILITY

RESTRICTION OF STIPENDS, RESEARCH, AND/OR PROFESSIONAL DEVELOPMENT

RESOURCES

SUSPENSION

TERMINATION

OTHER ACTIONS: In addition to or in place of the above sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

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 sexual
  - harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of
  - sexual harassment and/or retaliation
- The need to remedy the effects of the sexual harassment and/or
  - retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Review Team

## NOTICE OF OUTCOME

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The outcome of the investigative hearing process will be communicated to both parties in writing via e-mail, concurrently. This letter will be sent within five (5) business days after the hearing process has concluded, barring any exigent circumstances that may cause reasonable delays. The final outcome letter will include, as required by Title IX and the Clery Act, the name of the alleged Respondent; a description of all the steps taken from the receipt of the formal report through the hearing; the alleged Prohibited Conduct violation(s) and the finding of responsibility; the sanction(s) or disciplinary action imposed, if any; and information regarding the appeal process.

## APPEALS

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Either party may appeal the notice of outcome. The Complainant and/or Respondent may appeal only the parts of the decision of responsibility or sanctions that directly relates to him/her. Dissatisfaction with the outcome of the investigation is not grounds for appeal. The limited grounds for appeal are as follows:

- A material deviation from this Policy that affected the outcome of the case;
- To consider new and relevant evidence, that was unavailable, with reasonable diligence and effort, during the original investigation or adjudication, that could reasonably affect the original investigation finding or adjudication outcome or sanction. A summary of this new evidence and its potential affect must be included; and/or
- The sanction(s) imposed are substantially disproportionate to the severity of the violation.

The appeal, which may be no longer than 2-typed pages, shall consist of a plain, concise and complete written statement outlining the grounds for the appeal. The appeal must be submitted to the Title IX Coordinator within three (3) business days of the date of the notice of outcome. Upon receipt of an appeal, the Title IX Coordinator will provide the other party notice of the appeal and the opportunity to respond in writing to the appeal. Any response to the appeal must be submitted in writing within five (5) calendar days from receipt of notice of the appeal and may not be longer than 2-typed pages. In the event that both parties initially appeal the findings, each party will be provided notice and a copy of the other party’s appeal. Upon receipt

of an appeal and any response, the Title IX Coordinator will notify the designated appellate authority.

### **STUDENT APPEALS PROCESS**

For an appeal involving a student Respondent, the appellate authority is the Vice President for Student Development and Undergraduate Admissions. The appeal will be conducted in an impartial manner by the appellate authority. In any request for an appeal, the burden of proof lies with the party requesting the appeal; the original determination and sanction are presumed to have been decided reasonably and appropriately.

The appellate authority's review of an investigation will be limited to the written investigative report and all supporting documents. The appellate authority can affirm the original findings and sanctions, request a new investigation or investigator and/or alter the sanctions, depending on the basis of the requested appeal. If the appeal is based on material deviation from the Policy that affected the outcome of the case, the appellate authority can ask that a new investigation and/or adjudication occur. If an appeal is based on newly discovered information that could affect the finding of the investigator, the appellate authority can recommend that the case be returned to the investigative team to assess the weight and effect of the new information and render a determination after considering the new facts.

The appellate authority will communicate the result of the appeal to the Complainant and Respondent in writing, within ten (10) calendar days from the date of the submission of all appeal documents by both parties. A decision of the appellate authority is a final decision of the University.

### **FACULTY AND STAFF APPEALS PROCESS**

For an appeal involving an employee Respondent, the appellate authority is the Executive Director of Human Resources. The appeal process outlined in this Policy supersedes the grievance procedures contained in the Employee Handbook and in the Faculty Handbook.

The appeal will be conducted in an impartial manner by the appellate authority. In any request for<sup>11</sup><sub>SEP</sub> an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately.

The appellate authority shall consider the merits of an appeal only on the basis of the three (3) grounds for appeal identified above and any supporting information provided in the written request for appeal and the record of the original hearing. The appellate authority can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal. If the appeal is based on procedures not having been followed in a material manner, the appellate authority can ask that a new investigation and/or adjudication occur. In the case of new and relevant information, the appellate authority can recommend that the case be returned to the original investigative team to assess the weight and effect of the new information and render a determination after considering the new facts.

The appellate authority will communicate the result of the appeal to the Complainant and Respondent in writing, within ten (10) calendar days from the date of the submission of all appeal documents by both parties. A decision of the appellate authority is a final decision of the University.

## **ADDITIONAL CONSIDERATIONS**

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### **BYSTANDER INTERVENTION**

The University strongly encourages all community members to take reasonable and prudent actions to prevent or stop an act of sexual violence and sexual harassment. Campus community members who choose to exercise this positive moral obligation will be supported by the University and protected from retaliation. Taking action may include direct intervention, calling Campus Safety or law enforcement, or seeking assistance from a person in authority.

### **CONSOLIDATION OF INVESTIGATION**

The Title IX Coordinator has the discretion to consolidate multiple reports against a Respondent into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident.

### **FALSE REPORTING**

University community members are expected to provide truthful information in any report or proceeding under this Policy. Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct is prohibited and subject to disciplinary sanctions under the University's Student Community Conduct Code, and disciplinary action under the appropriate Employee Handbook or Faculty Handbook disciplinary Policy. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

### **GROUP INFRACTIONS**

When members of a student group, organization, or team or individuals acting collusively, act in concert in violation of the Policy, they may be charged as a group or as individuals, and an investigation may proceed against the group as joint Respondents, or against one or more involved individuals, as appropriate, given the available information and circumstances. Both officers and members of a student group, organization or team may be held collectively and individually responsible when violations of this Policy by the organization or its members take place at an organization sponsored event, have received the consent or encouragement of the organization or of the organization's leaders or officers, or was known or reasonably should have been known to the membership or its officers. In any such action, individual determinations as to responsibility will be made. Sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual.

### **PATTERN EVIDENCE**

Where there is evidence of a pattern of conduct similar in nature by the Respondent or Complainant, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to a determination of responsibility and/or assigning of a sanction. The determination of relevance will be based on an assessment of whether:

- The previous incident was substantially similar to the present allegation;
- The information indicates a pattern of behavior and substantial conformity with that pattern by the Respondent or Complainant; or
- The Respondent was previously found responsible for a violation of this Policy



Any party seeking to introduce information about pattern evidence should bring this information to the attention of the investigative team at the earliest opportunity. The investigative team may choose to consider this information, with appropriate notice to the parties. Where a sufficient informational foundation exists, the investigative team, in consultation with the Title IX Coordinator, will assess the relevance, form, and reliability of the information (hearsay may be excluded) and determine if it is appropriate for inclusion in the written investigation report.

### **PRIOR SEXUAL HISTORY**

A Complainant's prior sexual history is not relevant to the resolution of a report under this Policy and will not be accepted as evidence during an investigation. Where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As set forth in this Policy, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute effective consent. Any prior sexual history of the Complainant with individuals is typically not relevant and will not be permitted.

### **RECORDING HEARINGS**

Hearings (but not deliberations) are recorded by Immaculata University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Review Team, the parties, their Support Advisor, and appropriate administrators of the Title IX Team will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### **ROLE OF THE ATTORNEY/OUTSIDE AGREEMENTS**

A Complainant or Respondent may choose to seek the advice and assistance of an attorney at her/his own expense, but the attorney may not participate in investigatory interviews, mediation or adjudication or appeals. Similarly, the University will not recognize or enforce agreements between the parties reached outside of these procedures.

### **SELF DEFENSE**

The investigative team has the discretion to determine whether a claim of self-defense is relevant to its investigation and, if so, what weight, if any, to give to the claim of self-defense.

### **TIME LIMITS ON REPORTING**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the University will apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of the complaint.

#### **TIME FRAMES FOR RESOLUTION**

The University will make every effort to resolve all reports of Prohibited Conduct within ninety (90) calendar days. All time frames expressed in this Policy are intended to be guidelines rather than rigid requirements. Circumstances may arise that require the extension of time frames, including an extension beyond ninety (90) calendar days. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation or other unforeseen circumstances.

In the event that the investigation and resolution are anticipated to exceed the ninety (90) calendar days timeframe, the Title IX Coordinator will notify all parties of the reason for the delay and the expected adjustment in timeframe. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. All parties involved are entitled to periodic status updates on the progress of the investigation and any subsequent appeals.

#### **GLOSSARY**

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**ACTUAL KNOWLEDGE:** Notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official who has authority to institute corrective measures on behalf of the recipient.

**COMPLAINANT:** An individual who is alleged to be the victim of conduct that could sexual harassment based on a protected class; or retaliation for engaging in a protected activity.

**COMPLAINT (FORMAL):** A document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that the recipient investigate the allegation.

**CONFIDENTIAL RESOURCE:** An employee who is not a Mandated Reporter of notice of harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status).

**EDUCATION PROGRAM OR ACTIVITY:** Locations, events, or circumstances where Immaculata University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by Immaculata University.

**FINAL DETERMINATION:** A conclusion by the preponderance of evidence that the alleged conduct did or did not violate policy.

**FINDING:** A conclusion by the preponderance of evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).

**FORMAL GRIEVANCE PROCESS:** 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).

**INVESTIGATOR:** the person or persons appointed by Immaculata University to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile the information into an investigation report.

**MANDATED REPORTER:** an employee of Immaculata University who is obligated by policy to share knowledge, notice, and/or reports of harassment 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):** an employee of Immaculata University explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the University.

**PARTIES:** include the Complainant(s) and Respondent(s), collectively.

**REMEDIES:** 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:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.

**RESOLUTION:** the result of an informal or Formal Grievance Process.

**SANCTION:** a consequence imposed by Immaculata University on a Respondent who is found to have violated this policy.

**SUPPORT ADVISOR:** 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 the process, and to conduct cross –examination for the party at the hearing, if any. {Appendix A}

**TITLE IX COORDINATOR:** an official designated by the Immaculata University to ensure compliance with Title IX and the Immaculata’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, deputy coordinator, investigators, and any member of the Title IX Review Team.

## APPENDIX A- SUPPORT ADVISOR

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**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 Immaculata community.

The Title IX Coordinator will also offer to assign a trained Advisor to any party if the party so chooses. If the parties choose an Advisor from the pool available from the University, the Advisor will have been trained by the University and be familiar with the University's Resolution Process.

If the parties choose an Advisor from outside the pool of those identified by the University, the Advisor may not have been trained by the University and may not be familiar with University policies and procedures.

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

Immaculata University Sexual Harassment, Including Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation Policy

**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 University cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide an attorney.

**Advisors in Hearings/University-Appointed Advisor:** Under the Title IX Regulations, 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 parties and witnesses.

**Advisors Violations of University Policy:** All Advisors are subject to the same University policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by the University. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University officials or Investigators in a meeting or interview unless invited to do so (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding during questioning.

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.

Any Advisor who oversteps their role as defined by this Policy, or who refuses to comply with the University’s established rules of decorum for the hearing, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including the University requiring the party to use a different Advisor or providing a different University-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor’s non-compliance and future role.

**Sharing Information with the Advisor:** The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. The University provides a consent form that authorizes the University to share such information directly with a party’s Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the University is able to share records with an Advisor.

**Privacy of Records Shared with Advisor:** Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. [Advisors will be asked to sign Non-Disclosure Agreements (NDAs).] Immaculata University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Recipient's privacy expectations.

**Expectation of an Advisor:** The University generally expects an Advisor to adjust their schedule to allow them to attend University meetings/interviews/hearings when planned, but the University may change scheduled meetings/interviews/hearings 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 be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

**Expectations of the Parties with Respect to Advisors:** A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor should be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.