

Discriminatory and Sexual Misconduct Policy (Interim)

Discriminatory and Sexual Misconduct Policy (Interim) (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/>)

I. Policy Statement

The mission of Carnegie Mellon University is to cultivate a transformative educational experience for its Students that is committed to promoting and safeguarding their personal health and well-being. In addition, the mission is to create a collaborative environment open to the free exchange of ideas, where research, creativity, innovation, and entrepreneurship can flourish and where individuals can achieve their full potential. Consistent with the university's Statement of Assurance (<https://www.cmu.edu/policies/administrative-and-governance/statement-of-assurance.html>), it is the policy of Carnegie Mellon University to maintain an academic and work environment that promotes the confidence to work, study, innovate, and perform without fear of discriminatory and sexual misconduct. Such misconduct diminishes individual dignity, is contrary to the values of the university, and is a barrier to fulfilling the university's mission. It will not be tolerated at Carnegie Mellon University. This Policy contains grievance procedures that provide for the prompt and equitable resolution of Complaints alleging any action which would be prohibited by this Policy.

It is the responsibility of every member of the university community to foster an environment free of discriminatory and sexual misconduct. All members of the university community are encouraged to take reasonable and prudent actions to prevent or stop such behavior. In the event an Employee becomes aware of potential Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>), they should report the information to the Office for Institutional Equity and Title IX (the "IEX Office"). See Section III (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/reporting.html>) of this Policy for more information about making a Report of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>).

The Policy prohibits the types of misconduct listed below and defined in Section VII.A (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#a>) (referred to collectively as "Prohibited Conduct" (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>)):

- Discrimination (including Disparate Treatment);
- Discriminatory Harassment;
- Sexual Harassment, including
 - Quid Pro Quo Sexual Harassment;
 - Hostile Environment Sexual Harassment;
- Sexual Assault;
- Dating Violence;
- Domestic Violence;
- Stalking;
- Retaliation; and
- Violation of Protective Measures.

This Policy is intended to: (1) prevent, eliminate, and remedy the effects of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>); (2) foster an environment where all individuals are well-informed and supported in reporting Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>); and (3) provide an adequate, reliable, and impartial process for all parties once the university receives a Report of possible Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>). While these principles are clear and straightforward, the detailed procedures set forth in this Policy and related documents are necessary to assure that these matters are handled in an impartial, thoughtful, and thorough manner, consistent with the university's dedication to the integrity of its process.

Employees (including Faculty and Staff), Students, or third parties who violate this Policy may face, as appropriate, responsive action up to and including termination, expulsion, or other actions.

Nothing in this Policy shall be construed to abridge the free expression of ideas that is essential to the university's mission. The discourse conducted in accordance with the university's Freedom of Expression

Policy (<https://www.cmu.edu/policies/administrative-and-governance/freedom-of-expression/>) and with the statement on Academic Freedom and Responsibility enunciated in the Appointment and Tenure Policy (<https://www.cmu.edu/policies/faculty/appointment-and-tenure-policy.html>), whether in written, spoken, or electronic forms, shall be consistent with this Policy.

This Policy is intended to meet the university's obligations under Title VI of the Civil Rights Act of 1964 ("Title VI"); Title VII of the Civil Rights Act of 1964 ("Title VII"); Title IX of the Education Amendments of 1972 ("Title IX"); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"), as amended by the Violence Against Women Reauthorization Act of 2013 ("VAWA"), with respect to its application to sexual misconduct; and other applicable law and regulations. Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) that is subject to the Title IX regulations at 34 CFR Part 106.30 is defined as Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>) for purposes of this policy.

II. Jurisdiction

This Policy applies to Employees (including Faculty and Staff), Students, and third parties and to all conduct within the University's Programs or Activities, as defined below. However, the university will address conduct contributing to a Hostile Environment even if the underlying conduct itself occurred outside the University's Programs or Activities, including if it occurred outside the United States, and including conduct occurring online via computer and internet networks or on digital platforms, including social media sites.

The university retains discretion to determine whether conduct outside of its Programs and Activities is within its jurisdiction. In making this determination, the university will consider factors including, but not limited to, the severity of the alleged conduct, the risk of ongoing harm, whether both parties are members of the University community, impact on University Programs or Activities (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#university-programs>), and whether the off-campus conduct is part of a series of actions that occurred both on and off campus.

Some forms of conduct which may be considered inappropriate or unacceptable within the university community, such as incivility or bullying, may not meet the definition of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) under this Policy. However, the university retains discretion to report the conduct to an internal university department or authority such as Human Resources, Office of Community Responsibility, or relevant academic department or dean to determine and implement appropriate responsive action, including review for possible misconduct under other university policies.

This Policy does not apply to the implementation or appeal of requests for modifications or academic adjustments for individuals with disabilities. Concerns related to the implementation or appeal of requests for modifications or academic adjustments should be submitted to the Office of Disability Resources (<https://www.cmu.edu/disability-resources/students/forms.html>) (students) or HR Disability Services (<https://www.cmu.edu/hr/work-life/accommodations/>) (Faculty and Staff).¹ This Policy supersedes any conflicting information in any other university policies with respect to the definitions or procedures relating to Prohibited Conduct.

¹ Individuals with a Disability are entitled to reasonable accommodations that would enable them to participate in all processes provided for under this Policy, including, but not limited to, making a Report or Complaint, participating in an Alternative Resolution Process, and/or participating in an investigation and adjudication under the grievance procedures. If an individual requires such reasonable accommodations, they should promptly notify the IEX Office, which may consult, as appropriate, with the Office of Disability Resources or Human Resources; individuals should not assume that the IEX Office is on notice that they have a Disability, even if registered to receive accommodations via the Office of Disability Resources, Human Resources, or another academic or administrative unit.

III. Reporting

The university strives to create an environment where all members of the university community are aware of options for informing the university about instances of suspected Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>), how to seek assistance and support, and how to pursue university action for their own protection and that of the entire campus community. This Policy distinguishes the action of making a Report of possible Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) from filing a Complaint. Thus, information shared about suspected Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) does not automatically trigger the initiation of grievance procedures (investigation or adjudication), as discussed below in Section VI.A (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/complaint-resolved.html#a>). This section outlines the mechanisms for making a Report and how the university will respond to information it receives.

A. How to Make a Report

Any individual, including Students, Employees (including Faculty and Staff), or third parties are encouraged to submit Reports of suspected Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) directly to the IEX Office (<https://www.cmu.edu/title-ix/>) in-person, via email, phone call, or online.

- *To report in person:*
 - IEX Office
4615 Forbes Avenue, Suite 401
Pittsburgh, PA 15213
412-268-7125
institutionalequity@andrew.cmu.edu
 - Elizabeth Rosemeyer
Assistant Vice Provost & Title IX Coordinator
4615 Forbes Avenue, Suite 401
Pittsburgh, PA 15213
erosemey@andrew.cmu.edu
- *To report by phone or email:*
 - Please call 412-268-7125 or email institutionalequity@andrew.cmu.edu
- *To report online:*
 - Please complete this Report Form (<https://cmu.hracity.net/webform/index/2e196578-4892-4aab-af10-72cc76b5b71f>) (not anonymous).
- *To report anonymously, online or by phone:*
 - Please go to [cmu.ethicspoint.com](https://secure.ethicspoint.com/domain/media/en/gui/81082/) (<https://secure.ethicspoint.com/domain/media/en/gui/81082/>) or call 844-587-0793.

The university maintains a Resource Guide (https://www.cmu.edu/title-ix/resources-and-information/sexual_misconduct.html) for individuals who file reports of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) that provides information for community members about obtaining support from campus and/or community resources, filing reports of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) through the university's policies, and how to support a friend or family member who has been impacted by such conduct. Individuals who report Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) in Pennsylvania will also be informed of their rights as a victim of a crime under Pennsylvania law (<https://www.pa.gov/agencies/pcv/your-rights-as-a-victim.html>).

Inquiries about the application of civil rights laws to the university or questions regarding this Policy may be directed to the IEX Office, and may also be directed externally to the United States Department of Education's Office for Civil Rights ("OCR"), contact for which follows.

Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW Washington, D.C. 20202-1100
Phone: (800) 421-3481
Fax: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <https://www.ed.gov/ocr>

U.S. Equal Opportunity Commission ("EEOC")
131 M Street, NE

Washington, D.C. 20507
Phone: (800) 669-4000
Email: info@eeoc.gov
Web: <https://www.eeoc.gov/>

B. Mandatory Employee Reporting

Except as noted below, all Carnegie Mellon Employees are required to report information about potential violations of this Policy to the IEX Office/Title IX Coordinator. Reports may be submitted by phone (412-268-7125), email (institutionalequity@andrew.cmu.edu (tix@andrew.cmu.edu)), or in-person by visiting the IEX Office at 4615 Forbes Ave., Pittsburgh, PA 15213. In addition:

- All teaching assistants are required to report information about potential violations of this Policy that is received within the Student's role as a teaching assistant.
- All Resident Assistants and Community Advisors are required to report all potential violations of this Policy, regardless of whether such information is received in the course of the Student worker's role as an RA or CA.

Sharing information with the IEX Office does not automatically trigger the university to initiate a Complaint or impose any obligations on the Complainant. However, disclosing information to the IEX Office enables the university to assess appropriate responsive action, including offering Supportive Measures so that individuals may maintain equal access to their education, residential, and/or work environments. As detailed in Section VI.A (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/complaint-resolved.html#a>), in some circumstances, the IEX Office may initiate a Complaint based on the information received.

With respect to Students who are also Employees, whether the individual is a mandatory reporter depends on the context in which the person learns of the alleged Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>). Mandatory reporter responsibilities are triggered if the person learned of the alleged Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) in the context of an Employee role, when they would, in that role, be considered a mandatory reporter. Mandatory reporter responsibilities are not triggered if the person learned of the alleged Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) in the context of their receipt of an education as a Student at Carnegie Mellon. However, student workers employed as a Resident Assistant or as a Community Advisor are required to report all potential violations of this Policy, regardless of whether such information is received in the course of the student worker's employment or as a student.

Exceptions to Mandatory Reporting:

- Confidential Employees: Confidential Employees (see Section IV (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/confidential-resources.html>)) are not required to make a Report when a person informs them of conduct that may constitute Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) if that information is provided while the Confidential Employee is functioning within the scope of their duties to which confidentiality applies.

If you are unsure of whether you are required to report information, please contact the IEX Office in order to help clarify your responsibilities.

- Public Awareness Events: Disclosures of alleged Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) that occur at public awareness events (e.g., Take Back the Night, candlelight vigils, protests, or survivor speak-outs in which participants may disclose incidents of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>)) are exempt from mandatory reporting (i.e., need not be reported to IEX Office/the Title IX Coordinator).

C. Anonymous Reporting

Any individual may make a report of Prohibited Conduct to the IEX Office, and if preferred, may do so without disclosing one's name using the online reporting portal, available online and by phone, listed above and here:

cmu.ethicspoint.com (<https://secure.ethicspoint.com/domain/media/en/gui/81082/>)
844-587-0793

Depending on the level of information available about the incident or the individuals involved, the university's ability to respond to an anonymous report may be limited. The university will, however, take whatever steps it deems appropriate and in the best interests of the overall university community, consistent with the information available. The university will never refuse to respond to a report solely on the grounds that it was made anonymously. When a known Complainant wishes to remain anonymous, the university will seek to respect the request of the Complainant, and where it cannot do so, will explain why.

Filing an anonymous report does not satisfy the mandatory reporting obligations of Employees under Section III.B.

D. Reports to Law Enforcement

An individual who experiences, witnesses, or learns of possible criminal conduct may contact law enforcement directly by calling:

- 911 (for emergencies off-campus)
- University Police Department
300 South Craig Street
Pittsburgh, PA 15213
(412) 268-2323 (for emergencies on-campus)
campuspd@andrew.cmu.edu

Making a report to law enforcement does not generally obligate an individual to pursue a criminal complaint, or to participate in the university's disciplinary process. An individual may choose to participate in the university's disciplinary process, an external criminal process, both, or neither. In the event that both criminal and disciplinary processes are at issue, the university may comply with law enforcement requests for temporary delays in the disciplinary process in order to permit law enforcement to gather evidence for a criminal investigation.

Information about local medical care, local hospitals, including where a person may obtain an examination by a Sexual Assault Nurse Examiner (SANE) is available on the website for IEX Office (<https://www.cmu.edu/title-ix/resources-and-information/>).

Medical care may address physical and mental health concerns, including, where applicable, those related to pregnancy and/or sexually transmitted infections. Medical providers may also be able to assist in the collection and preservation of evidence. The ability to collect and preserve evidence of Sexual Assault is limited in time, so it is essential that care be sought as soon as possible. Individuals should avoid showering/bathing, douching, and, if possible, urinating. In the event of oral sexual contact, individuals should avoid eating, drinking, or brushing teeth. Any soiled clothes, towels, or bedding should be retained in paper bags. Preserving physical evidence in this manner may facilitate a criminal investigation, but seeking medical treatment does not obligate an individual to pursue a criminal complaint.

E. How the Office for Institutional Equity and University Police Share Information about Prohibited Conduct

The university's process for addressing Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) is separate from the law enforcement process for addressing crimes.

The university believes that the decision as to whether to report a crime should be left to the individual(s) impacted by the crime, except in limited circumstances such as where there may be an immediate threat to the university community or other legal obligation to report. The IEX Office will share de-identified information about Reports with University Police where required for the purpose of complying with the university's federal reporting obligations, to facilitate accurate compilation of crime statistics, and to ensure that other public safety responsibilities are addressed. In extremely limited circumstances, the IEX Office may share identifying information with University Police. This may include circumstances where the university is obligated to report a "Timely Warning" pursuant to Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (e.g., when a crime has been committed on or near University Property which represents a serious, ongoing threat and/or is part of an ongoing pattern). Sharing such information does not constitute a criminal complaint to law enforcement, although the University Police Department may contact individuals to offer assistance, inquire about their willingness to preserve evidence, or file a criminal complaint.

Making a report to the University Police means that information will be shared with others as is necessary and/or appropriate. For example, if an individual makes a report of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) to the University Police Department that has not already been reported to the IEX Office, the University Police Department will report the matter to the IEX Office. The purpose of this report is to ensure that the university can take appropriate actions to seek to eliminate Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>), prevent its recurrence, and remedy

its effects. The Complainant or others may be contacted by the IEX Office to follow up on the information received from the University Police Department to offer supportive measures, including filing a Complaint with the IEX Office (<https://www.cmu.edu/title-ix/>).

F. Training

University employees may be required to complete periodic training related to compliance with this Policy and/or applicable federal, state, and local civil rights laws. The IEX Office, in coordination with the Office of the Provost, Office of the Dean of Students, and Human Resources will determine the periodic training requirements for faculty, staff and students.

Additional training on specific topics is required of investigators, decisionmakers, facilitators of any Alternative Resolution Process, and the university's Title IX Coordinator and designees.

Information regarding such training requirements will be published on the IEX website (<https://www.cmu.edu/title-ix/education-and-training/>).

G. Amnesty for Students When Reporting Prohibited Conduct to the University

Individuals who were drinking alcohol or using drugs at the time an incident of alleged Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) occurs may be hesitant to make a Report or Complaint, or participate as a Party or witness in an investigation due to concerns about being charged with disciplinary violations. In order to address these concerns, and encourage the prompt reporting of information related to known or suspected Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>), the university will not pursue violations of the university's Alcohol and Drug Policy (<https://www.cmu.edu/policies/administrative-and-governance/alcohol-and-drug-policy.html>) and/or Hazing Policy (<https://www.cmu.edu/student-affairs/cm-student-handbook/community-policies/hazing.html>) against any Student when information involving alcohol or drug use is revealed as part of an investigation under this Policy, as long as any such violations did not and do not place the health or safety of any other person at risk. The university may, however, initiate an assessment, educational discussion, or pursue other developmental interventions (non-disciplinary options) to address hazing or the use of alcohol or other drug use.

IV. Confidential Resources and Privacy

Carnegie Mellon understands that some individuals impacted by Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) may not be ready or may not be willing to report through a channel that may lead to an investigation or other university action. For such individuals, several confidential resources are available both on and off campus.

A. Confidential University Employees

The following university Employees are designated as Confidential Employees who are able to confidentially receive and discuss information related to alleged Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>), meaning they do not need to report such conduct to the IEX Office.¹

- Employees in Counseling and Psychological Services (CaPS);
- Employees in University Health Services (UHS);
- Religious and Spiritual Life Coordinator;
- The Student and Faculty Ombudsperson;
- The Staff Ombudsperson; and
- Employees who conduct human subjects-research studies that have been approved by the Institutional Review Board (IRB) and which are designed to gather information about Discrimination or Discriminatory Harassment, with respect to information disclosed in the course of conducting the approved study;

In order for confidentiality to apply, Confidential Employees must be functioning within the scope of the Employee's job duties to which confidentiality applies. Confidentiality does not apply if the Employee receives information outside the scope of such job duties. Confidential Employees may be required to report non-identifying information to University Police Department for crime reporting purposes.

Contact Information for Campus Confidential Employees:

- Counseling and Psychological Services (<https://www.cmu.edu/counseling/>) (CaPS) (Student only)
412-268-2922

- University Health Services (<https://www.cmu.edu/health-services/>) (Student only) 412-268-2157
- University Health Services - Health Promotions Team (Student only)
- Staff Ombudsperson (<https://www.cmu.edu/hr/resources/ombudsperson/>) 412-268-1018
- Student and Faculty Ombudsperson (<https://www.cmu.edu/ombudsperson/>) 412-268-2845
- Religious and Spiritual Life Coordinator; 412-268-3559

In addition, Carnegie Mellon employees may seek confidential assistance through the Employee Assistance Program (<https://www.cmu.edu/hr/work-life/support/eap/>) (CMU Employees only).

B. External Community Resources

Individuals may also seek assistance and support from a variety of external resources, including those listed below. These resources are available free of charge to students, undergraduate and graduate, faculty and staff, regardless of whether a person lives in campus housing and regardless of an individual's sex, gender, or sexual orientation. Individuals may contact the resources directly or the university can assist individuals with connections by request.

- Women's Shelter and Center of Greater Pittsburgh (<https://wcspittsburgh.org/>)
- Pittsburgh Action Against Rape (<https://paar.net/>)
- Center for Victims (<https://www.centerforvictims.org/>)
- Persad (<https://www.persadcenter.org/>)

C. Privacy

Although often conflated, privacy and confidentiality are distinct terms with distinct meanings. Privacy refers to the university's commitment to sharing information related to any Report, Complaint, Supportive Measures, Alternative Resolution Process, or grievance procedures under this Policy only:

- To a person with a legal right to receive disclosures of information, or with prior written consent;
- When necessary to effectuate this Policy, or to otherwise address conduct which may reasonably constitute Prohibited Conduct;
- As required by Federal law or regulation, including by the terms and conditions of a Federal award (e.g., a grant award or other funding agreement); and/or
- When required or permitted by State or local law or the Family Educational Rights and Privacy Act ("FERPA"). See the university's Policy on Student Privacy Rights (<https://www.cmu.edu/policies/student-and-student-life/privacy-rights-students.html>) for more information about FERPA.

The university provides training to personnel regarding the safeguarding of private information, instructs parties and witnesses about the university's privacy-related expectations, and will take other reasonable steps to prevent and address the parties' and, if applicable, their Advisors', unauthorized disclosure of information and evidence obtained solely through the grievance procedures.

In any grievance process, other than as provided for in this Policy, the university will not restrict the ability of either party to discuss the allegations prompting a Report or Complaint, including for the purposes of obtaining and presenting evidence (such as by speaking to witnesses), consulting with family members, confidential resources, or advisors, or otherwise preparing for or participating in the grievance procedures.

¹ Again, in this section, "confidential" refers to confidentiality with respect to reports to the IEX Office under this Policy. Inclusion in this section does not signify that disclosures are otherwise confidential in the manner of those exchanged with individuals belonging to certain professions (such as healthcare providers, professional counselors, or pastoral counselors). Such individuals cannot disclose the content of those communications, or records of same, to **any** third party without the disclosing individual's prior written consent, or if permitted or required by law or relevant professional ethical obligations (such as "duty to warn"). These communications are privileged under federal or state law. Only certain licensed treatment providers in UHS and CaPS have physician-patient or counselor-client privilege. Please contact UHS or CaPS for more information about these privileges.

V. How the University Responds to Reports

Regardless of whether a Complainant chooses to pursue an Alternative Resolution Process, grievance procedures, or no further process, the Title IX Coordinator or a designated university official conducts an initial assessment to determine next steps and will initiate contact with the Complainant to discuss the availability of Supportive Measures. Respondents will also be offered supportive measures after receiving a notice.

Supportive Measures are non-disciplinary, non-punitive individualized services, assistance, and other measures that the university offers and may put in place, without fee or charge, as appropriate and reasonably available, after receiving a Report of possible Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>). Supportive Measures are designed to restore or preserve access to the University's Programs and Activities, including measures designed to protect the safety of all parties or the educational environment, or deter further Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>). Supportive Measures cannot be unreasonably burdensome to the other party.

Supportive Measures are available before and after a Complaint is filed, and in cases in which no Complaint is filed.

Upon receipt of a Report, the Title IX Coordinator, or their designee, will contact the Complainant (1) to discuss the availability of Supportive Measures and (2) to explain that Supportive Measures are available with or without the filing of a Complaint. The Title IX Case Manager helps determine the appropriate Supportive Measure(s) to be implemented. The Title IX Case Manager will assess with the relevant party the unique facts and circumstances of their situation and identify steps to help the individual continue access to their education or employment.

Supportive Measures may be continued, modified or terminated at the conclusion of a grievance process or Alternative Resolution Process.

Examples of Supportive Measures include, but are not limited to:

- Academic support services and accommodations, including the ability to reschedule classes, exams and assignments, transfer course sections, or withdraw from courses;
- Academic schedule modifications (typically to separate Complainant and Respondent);
- Work schedule or job assignment modifications (for university employment);
- Changes in on-campus work or university housing location;
- On-campus counseling services and/or assistance in connecting to community-based counseling services;
- Assistance in connecting to community-based medical services;
- No contact agreements or orders, which may be mutual or non-mutual;
- Temporarily limiting an individual's access to certain university facilities or activities;
- Information about and/or assistance with obtaining personal protection orders;
- Leaves of absences;
- Increased monitoring and security of certain areas of the campus;
- Options for emergency Housing;
- Individualized limitations on the parties' communications and interactions with each other; or
- A combination of any of these measures.

Changes in class, work, housing, extracurricular, and/or other activities may be made regardless of whether there is or is not a comparable alternative.

The university will maintain Supportive Measures provided to the Complainant or Respondent as confidential to the extent that maintaining such confidentiality would not impair the university's ability to provide the Supportive Measures.

VI. How a Complaint is Resolved

A. Initiating a Complaint

A Complaint may be filed with the IEX Office orally in person, by mail, or by email. Complainants are strongly encouraged, but not required, to submit a Complaint Form [pdf] (https://www.cmu.edu/title-ix/pdf-files/old-pdf-files/iex-formal-complaint-form_2024.pdf). A Complainant may file a Complaint at any time, but significant delays between the time an incident occurs and

conducting an investigation may impede or limit the availability of Relevant evidence and/or availability of witnesses.

Upon the filing of a Complaint, the IEX Office will contact the Complainant to confirm receipt of the Complaint and to confirm the allegations as understood by the IEX Office. Before initiating the grievance procedures, the IEX Office will review the Complaint to determine whether there is any basis to dismiss the Complaint, as detailed in Section VI.B below. Otherwise, the IEX Office will initiate the grievance procedures and commence an investigation as detailed in Section VI.C below. The Complainant may also wish to pursue the Alternative Resolution Process, an alternative track discussed further below, instead of or after filing a Complaint.

Consistent with Section VI.D.ii.e, when a complaint names a Respondent who is an on-going affiliate of the university who is not a Faculty member, Staff member, Student, or Participant in a Summer Program, such as a volunteer or contractor, the IEX Office will determine the appropriate manner of resolution in accordance with the university's commitment to a prompt and equitable process and consistent with any applicable state and federal law and regulation.

In certain circumstances, the IEX Office may file a Complaint and initiate an investigation in the absence of an identifiable Complainant or when a Complainant is unwilling to proceed with a Complaint. In making the determination to initiate a Complaint, the IEX Office may consider the following factors:

1. The Complainant's request not to proceed with the initiation of a Complaint;
2. The Complainant's reasonable safety concerns regarding the initiation of a Complaint;
3. The risk that additional acts of Prohibited Conduct would occur if a Complaint is not initiated;
4. The severity of the alleged Prohibited Conduct, including whether the alleged misconduct, if established, would require the removal of a Respondent from the university's campus or imposition of another Disciplinary Sanction to end the Prohibited Conduct and prevent its recurrence;
5. The age and relationship of the parties, including whether the Respondent is an Employee of the university;
6. The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, and/or Prohibited Conduct alleged to have impacted multiple individuals;
7. The availability of evidence to assist the Hearing Officer or other decisionmakers in determining whether Prohibited Conduct occurred;
8. Whether the university could end the alleged Prohibited Conduct and prevent its recurrence without initiating a Complaint; and
9. Whether the alleged Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>), if true, would constitute Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>).

After consideration, the IEX Office may initiate a Complaint and commence an investigation. If the Title IX Coordinator determines that the allegations in the Formal Complaint, if true, would constitute Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), the Title IX Coordinator must commence an investigation as set forth below.

If the IEX Office decides to initiate a Complaint, the IEX Office will notify the Complainant (if identifiable) prior to the initiation of the Complaint in order to address any reasonable safety concerns, including via options for Supportive Measures under Section V (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/respond-report.html>).

The IEX Office may consolidate complaints of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party ("cross complaints"), when the allegations of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) arise out of the same alleged facts or circumstances. When the university receives a report of alleged conduct that could constitute Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) under this Policy and could also violate other university policies, the university, in its discretion, will determine which policy/ies and procedures apply and whether action will be taken under multiple policies.

Both the Complainant and the Respondent may select an Advisor of their choice to be present at any hearing or pre-hearing meetings or interviews. Details concerning the role of the Advisor are set forth in the applicable adjudication procedures under Section VI.D.

The Respondent is presumed to be Not Responsible for any alleged Prohibited Conduct until a determination is made at the conclusion of the adjudication procedures set forth in this Policy.

The university will not discipline a party, witness, or others who participate in the investigation or adjudication of a Complaint for making a false statement based solely on the determination of responsibility for Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) under this Policy (put another way, a determination that a Respondent was not responsible for a Policy violation does not, without more, establish that the Complainant or any other party or witness has made a false allegation or statement in bad faith). Allegations that an individual has provided a false statement must be separately reviewed under applicable university policy (e.g., the Carnegie Mellon Student Handbook, the Staff Handbook, or the Code of Business Ethics) and such allegations, in general, will be stayed until the completion of the underlying proceedings in this Policy. Allegations of a violation of the Consensual and Intimate Relationship Policy Regarding Undergraduate Students (<https://www.cmu.edu/policies/student-and-student-life/consensual-relationships.html>) must be separately reviewed under that policy.

The IEX Office will establish and maintain on its website reasonably prompt time frames (<https://www.cmu.edu/title-ix/university-response/discriminatory-and-sexual-misconduct-investigation-and-resolution-process.html>) for the major stages of the Complaint process.

For Complainants of alleged Prohibited Conduct that, if true, would constitute Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), the following additional requirements apply:

- Prior to the initiation of an investigation or an Alternative Resolution Process, the IEX Office must receive a Complaint that contains Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the Complaint;
- If the Complainant is under the age of 18 and not enrolled in an undergraduate or graduate program, the university will ordinarily also contact the Complainant's parent or guardian, as permitted by law, to explain the process for filing a Formal Complaint; and
- At the time of filing the Complaint, the Complainant must be participating in or attempting to participate in the University's Programs or Activities. If the Complainant is not participating in or attempting to participate in the University's Programs or Activities at the time the Formal Complaint is filed, the Complaint may still be investigated and adjudicated under this Policy as Other Prohibited Conduct. These requirements do not apply to Complaints filed by the IEX Office.

For allegations of Prohibited that occurred before the effective date of this Policy, the matter will be investigated and adjudicated using the procedures set forth in this Section VI of this Policy. For the purpose defining conduct that constitutes a violation of policy (i) for allegations of Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), that occurred before the effective date of this policy, the University will use the current definitions in Section VII (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html>) of this Policy (ii) for allegations of Other Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#other-prohibited-conduct>), the university will use the definitions in the applicable policy that was in effect at the time of the alleged conduct.

B. Dismissal and Withdrawal of a Complaint

For allegations of Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), if at any time during the pendency of a Complaint the IEX Office determines that the allegation if true, would not constitute Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>); did not occur in the University's Programs and Activities; or did not occur against a person in the United States, the IEX Office must dismiss the allegation as it relates to Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>). For any dismissed allegation of Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), the IEX Office must also determine whether the allegation would constitute Other Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#other-prohibited-conduct>). If the IEX Office determines that the allegation would not constitute Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>) but would constitute Other Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#other-prohibited-conduct>), the allegation may then proceed as Other Prohibited

Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#other-prohibited-conduct>).

At any time during the pendency of any Complaint, the IEX Office may dismiss the Complaint or specific allegations within a Complaint as detailed below:

1. The Respondent is not or is no longer a Student or Employee of the university;
2. The Complainant voluntarily requests to withdraw any/all allegations in writing and the IEX Office declines to initiate/continue the Complaint/grievance procedures, as described further below, and/or without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) even if established;
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination; or
4. The IEX Office determines that even if proven, the alleged conduct would not constitute Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>).

The following ground for dismissal applies only to Other Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#other-prohibited-conduct>):

1. When the IEX Office determines that the Complainant has not made good faith effort to cooperate in advancing an investigation or hearing (e.g. Complainant is non-responsive), the IEX Office has discretion to dismiss the case. The Complainant must be provided a warning before a Complaint is dismissed on this ground.
2. After the conclusion of the investigation under Section VI.C., the IEX Office determines that the evidence collected during the investigation is insufficient to support the allegations, such that reasonable person could not conclude that Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) occurred.

Upon dismissal of a Complaint and/or upon determination that an allegation of sexual misconduct does not constitute Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), the IEX Office will provide prompt written notice to the Complainant of the basis for the dismissal and the right to appeal the dismissal decision under Section VI.F. If the dismissal occurs after the Respondent has been issued a Notice of Allegations, the IEX Office will also provide such written notice to the Respondent.

If a Complaint is dismissed before the IEX Office has issued a Notice of Allegations to the Respondent, only the Complainant will have the opportunity to appeal the decision to dismiss the Complainant. If the Complaint is dismissed after the IEX Office issued a Notice of Allegations to the Respondent, the Complainant and Respondent will have an equal opportunity to appeal the dismissal decision.

A Complainant who filed a Complaint may request withdrawal of such complaint at any time by submitting a written request to the Investigator assigned to the case or the IEX Office. After a Complainant requests withdrawal of a Complaint, the IEX Office will review the matter, considering the same factors as specified in Section VI.A, to determine whether to grant the request for withdrawal or to continue the Complaint. If the IEX Office refuses a request by a Complainant to dismiss a Complaint, the Complainant will be notified in writing of the decision and rationale.

C. Investigation Procedures

When commencing an investigation, the Title IX Coordinator will appoint an investigator to review, assess, and investigate the Complaint (the "Investigator"). The Investigator may be a staff member in the IEX Office, a staff member in Human Resources, a staff member in another department at the university, or an external professional. The Title IX Coordinator is responsible for ensuring that the Investigator has been appropriately trained and is free of conflicts of interest or bias — for or against Complainants or Respondents generally, or a specific Complainant or Respondent — that would impair the investigation. If a party has concerns about bias in favor of or against a specific Complainant or Respondent, bias in favor of or against Complainants or Respondents generally, or a potential conflict of interest which involves the Title IX Coordinator, facilitator of an Alternative Resolution Process, investigator, decisionmaker, or appeals decisionmaker, the party should direct those concerns to the Title IX Coordinator. Concerns regarding bias or conflict of interest on the part of the Title IX Coordinator will be referred to the Vice Provost for Culture, Community and Engagement (or designee) for review.

The IEX Office will send the Complainant and Respondent a written Notice of Allegations. If in the course of an investigation, the IEX Office decides to investigate additional allegations of Prohibited Conduct not included within the original notice or if it is necessary to make revisions to the

allegations, the IEX Office will issue an amended Notice of Allegations to the Complainant and Respondent. The issuance of a Notice of Allegations may be reasonably delayed as necessary to address any reasonable concerns for the safety of any person as a result of providing such notice.

The Notice of Allegations will include:

- information about the Alternative Resolution Process and grievance procedures;
- the identities of the parties involved in the incident(s), the conduct alleged to constitute Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s), if known;
- information about the university's prohibition on Retaliation;
- a statement that the parties are entitled to an investigative report summarizing all Relevant evidence and retain the equal right to access such evidence upon request and, in cases involving Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), to inspect all directly related evidence;
- a statement that the Respondent is presumed not responsible for the alleged Prohibited Conduct until a determination is made at the conclusion of the grievance procedures, after the parties have had an opportunity to present Relevant (not otherwise impermissible) evidence to a trained, impartial decisionmaker;
- notice that the Parties have the right to be accompanied by an Advisor of choice, who may be but need not be an attorney;
- notice that knowingly making false statements or submitting false information is prohibited;
- information about Supportive Measures;
- a statement regarding the standard of proof to be used in considering the facts and evidence;
- the range of possible Disciplinary Sanctions and Remedies; and
- information about the appeals process.

The Investigator will conduct an investigation and prepare a preliminary investigative report that fairly summarizes the Relevant evidence gathered during the investigation. The Investigator will, prior to any interviews or meetings with the parties, provide written notice of the date, time, location, and purpose of the interview or meeting, with sufficient time for the party to prepare for the interview or meeting. A Party's decision not to participate in the investigation, in whole or in part, will be documented in the investigative report.

Prior to preparing any report, the Investigator will request Relevant information from the parties as well as work to gather other Relevant available evidence. The ultimate responsibility for gathering available Relevant evidence rests with the university. Throughout the investigation, the university will provide both parties equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The parties may offer testimony from an expert witness, as specified in Appendix B (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/appendix-b.html>) to this Policy.

The preliminary investigative report will be made available to the Complainant, Respondent, and their respective Advisors in electronic or hard-copy format. In cases involving Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), all directly related evidence will also be made available to the Complainant, Respondent, and their respective Advisors for inspection and review in electronic or hard-copy format. Any Relevant evidence collected during the investigation will also be made available to the Complainant, Respondent, and their respective Advisors for inspection and review in electronic or hard-copy format. The Complainant and Respondent will have at least ten (10) calendar days to review and respond to the preliminary investigative report. The Investigator will consider any responses submitted by the Complainant, Respondent and their respective Advisors and prepare a final investigative report ("Investigative Report").

D. Adjudication Procedures

The specific procedures for adjudicating allegations of Prohibited Conduct are based upon the nature of the parties' relationship to the university.

1. Federal Rule Misconduct:

For Allegations of Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>) — the matter will be handled in accordance with the Procedures set forth in Section VI.E using the Hearing Procedures for the Adjudication of Discriminatory and Sexual Misconduct - Federal Rule Sexual Misconduct [pdf] (<https://www.cmu.edu/policies/forms-and-documents/hearing-procedures-federal.pdf>) and the Appeal Procedures set forth in Section VI.F. This subsection supersedes and controls over all other provisions of Section VI.D.

In cases involving multiple allegations which include allegations of both Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>) and Other Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#other-prohibited-conduct>), the university reserves the right to decide whether to adjudicate all allegations in a single process under Section VI.D.i or to separately adjudicate the allegations of Other Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#other-prohibited-conduct>) under the applicable procedures in Section VI.D.ii.

2. Other Prohibited Conduct:

For Allegations of Other Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#other-prohibited-conduct>) — The specific procedures for adjudicating allegations of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) other than Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>) (i.e., Other Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#other-prohibited-conduct>)) are based upon the nature of the Respondent's relationship to the university.

- a. **Where the Respondent is a Student** — the matter will be handled in accordance with the procedures set forth in Section VI.E using the Hearing Procedures for the Adjudication of Discriminatory and Sexual Misconduct – Other Prohibited Conduct [pdf] (<https://www.cmu.edu/policies/forms-and-documents/hearing-procedures.pdf>) and the Appeal Procedures set forth in Section VI.F.

When a Respondent is both a Student and an Employee (a "Student Employee"), the university will undertake a fact- and circumstance-specific inquiry to determine how the matter will be adjudicated, including consideration of whether the party's primary relationship with the university is to receive an education, and whether the alleged Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) occurred while the party was performing employment-related work. Typically, if a Respondent who is a Student Employee may experience a change in their employment status as a result of the outcome of a grievance process, but not a change in their student status, the matter will proceed as though the Respondent was a Staff member.

- b. **Where the Respondent is a Faculty member** — the matter will be handled in accordance with the procedures set forth in Section VI.E using the Hearing Procedures for the Adjudication of Discriminatory and Sexual Misconduct – Other Prohibited Conduct [pdf] (<https://www.cmu.edu/policies/forms-and-documents/hearing-procedures.pdf>) and the Appeal Procedures set forth in Section VI.F.
- c. **Where the Respondent is a Staff member** — the IEX Office will send the Investigative Report to the Assistant Vice President of Human Resources, People & Organizational Effectiveness in Human Resources and the matter will be handled in accordance with the procedures set forth in the Staff Handbook (<https://www.cmu.edu/hr/resources/policies/staff-handbook.html>), Volume II, Section 10c. The Assistant Vice President of Human Resources, People & Organizational Effectiveness also has discretion to refer the matter for live hearing in accordance with the procedures set forth in Section VI.E using the Hearing Procedures for the Adjudication of Discriminatory and Sexual Misconduct – Other Prohibited Conduct [pdf] (<https://www.cmu.edu/policies/forms-and-documents/hearing-procedures.pdf>) and the Appeal Procedures set forth in Section VI.F.
- d. **Where the Respondent is a Participant in a Summer Program** — the matter will be handled in accordance with the Summer Programs Code of Conduct.
- e. **Where the Respondent is an on-going affiliate of the university who is not a Faculty member, Staff member, Student, or Participant in a Summer Program** — the IEX Office will determine the appropriate manner of resolution in accordance with the university's commitment to a prompt and equitable process and consistent with any applicable state and federal law and regulations.

3. Voluntary Acceptance of Responsibility:

For any proceedings under Section VI.D, at any time prior to the rendering of a finding as to responsibility by a decisionmaker, the Respondent may indicate that they do not wish to contest the disciplinary case against them and accept responsibility for all or part of the Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>).

conduct) alleged. Respondent will thereafter be notified of the Disciplinary Sanctions imposed and whether Remedies will be provided.

The Complainant and Respondent will be notified of the outcome as applicable based on the notice that would have been provided if the allegations had proceeded through the grievance process under Section VI.D.i or Section VI.D.ii.

This decision may be appealed under Section VI.F only as to the severity of the sanction imposed. In the event that the Respondent accepts responsibility for only part of the Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) alleged, the remaining allegations will proceed through grievance process under Section VI.D.i or Section VI.D.ii. and Remedies and Disciplinary Sanctions for all the Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) at issue will be assigned at the conclusion of the matter in its entirety.

E. Live Hearing Procedures

The following procedures apply to live hearings held under this Policy, as indicated in Section VI.D.

Appointment of Hearing Officer

After reviewing the Investigative Report prepared under Section VI.C, the IEX Office will appoint a hearing officer ("Hearing Officer") who will be the decision-maker, responsible for conducting a review of the case, presiding over a live hearing if necessary, and making findings of fact and a determination of responsibility with respect to each allegation in the Complaint. The Hearing Officer may be a University employee or an external professional.

Conduct of the Hearing & Written Determination

The Hearing Officer will conduct a live hearing in accordance with the Hearing Procedures for the Adjudication of Discriminatory and Sexual Misconduct [pdf] (<https://www.cmu.edu/policies/forms-and-documents/hearing-procedures.pdf>) (for cases under Section VI.D.i) or the Hearing Procedures for the Adjudication of Discriminatory and Sexual Misconduct – Other Prohibited Conduct [pdf] (<https://www.cmu.edu/policies/forms-and-documents/hearing-procedures.pdf>) (for cases under Section VI.D.ii). The hearing will take place no sooner than ten (10) calendar days after the parties are provided with the Investigative Report.

At the conclusion of the hearing, the Hearing Officer will objectively evaluate all Relevant evidence, both inculpatory and exculpatory, and make findings of fact and a determination of responsibility with respect to each allegation. The determination of responsibility will be made using the preponderance of evidence standard.

If the Hearing Officer determines that the Respondent is responsible for any allegation, the Hearing Officer will contact the appropriate sanctioning officer, as specified below, to review the findings of fact and determination(s) regarding responsibility ("Sanctioning Officer"). The Sanctioning Officer will have sole responsibility for determining the appropriate Disciplinary Sanctions and any Remedies related to any finding of responsibility made by the Hearing Officer. The Sanctioning Officer will provide a written determination regarding Disciplinary Sanctions and/or Remedies to the Hearing Officer. If the Hearing Officer determines that the Respondent is not responsible for any of the allegations, the Sanctioning Officer will not be contacted. Where the appointed Hearing Officer is an Employee of the university, the same individual may be appointed to serve as both the Hearing Officer and Sanctioning Officer.

The applicable Sanctioning Officer is based on the nature of the Respondent's relationship to the university:

- Sanctioning Officer for Students: Associate Vice President of Student Affairs for Community Life or designee (in consultation with the Community Standards Review Committee (<https://www.cmu.edu/student-affairs/cm-student-handbook/community-standards/definitions.html>))
- Sanctioning Officer for Staff: Assistant Vice President for Human Resources, People & Organizational Effectiveness or designee
- Sanctioning Officer for Faculty: Vice Provost for Faculty or designee

The Hearing Officer will prepare a written determination regarding the findings of fact and the determination regarding responsibility for each allegation, with rationale and appeals information. Where applicable, the written decision of the Sanctioning Officer regarding Disciplinary Sanctions and/or whether Remedies will be provided will be attached to or incorporated into the written determination prepared by the Hearing Officer.

Notice of Written Determination

The written determination will be provided to the IEX Office. Except as detailed below regarding cases involving Student-Respondents, the IEX Office is responsible for providing the Complainant and Respondent with a copy of the written determination. Both parties must be provided the written determination simultaneously.

For Cases Involving Student-Respondents — Depending on the nature of the category of alleged Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>), the right of the Complainant to receive notice of the outcome(s), as well as the right to appeal the outcome(s), is restricted by the Family Educational Rights and Privacy Act (FERPA);

Consistent with FERPA, VAWA, and applicable Title IX regulations, in Student-Respondent cases the outcome(s) applicable to a Student-Respondent will be disclosed to the Complainant only for the following offenses under this Policy:

- Sexual Harassment (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#sexual-harassment>), including
 - Quid Pro Quo Sexual Harassment,
 - Hostile Environment Sexual Harassment,
- Sexual Assault,
- Dating Violence,
- Domestic Violence,
- Stalking (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#stalking>), and/or
- Retaliation (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#retaliation>) where the underlying protected activity is related to the exercise of rights related to and/or Complaints of the foregoing.

Consequently, as required by FERPA, in Student-Respondent cases, **the outcome(s) applicable to a Student-Respondent will not be disclosed and the Complainant cannot appeal such outcome(s)** for the following offenses under this Policy:

- Violation of Protective Measures;
- Discrimination and/or Discriminatory Harassment
- Retaliation where the underlying protected activity is not related to alleged Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), Sexual Assault, Dating Violence, Domestic Violence, Stalking, and/or the exercise of rights under the Title IX Regulations at 34 C.F.R. § 106.31.

For Student-Respondent cases, the IEX Office will provide the Student-Respondent with a complete copy of the written determination for all allegations. Where applicable, the IEX Office will coordinate with the Hearing Officer to edit or redact the written determination issued to the Complainant in order to remove information related to the outcome(s) of alleged offenses which the university is not permitted to disclose, per the list above. Regardless of the type of allegation, any outcomes that apply to the Complainant (e.g., Remedies) will be shared with the Complainant.

Additional Procedures for Disciplinary Sanctions Against Faculty Respondents

In the case of sanctions against a Faculty Respondent, the Disciplinary Sanctions determined by the Sanctioning Officer for Faculty will be provided to the President as recommended Disciplinary Sanctions. The President will take no action on the recommended Disciplinary Sanctions until either (i) the completion of any appeal filed by any party under Section VI.F or (ii) the deadline to file an appeal under Section VI.F passes without any appeal being filed. If an appeal is filed, the President or the President's designee will render a decision on the appeal consistent with the procedures in Section VI.F. If any Disciplinary Sanctions remain after the completion of the appeal or where no appeal is filed by the appeal deadline, the President will thereafter render a decision based on both the recommendation of the Sanctioning Officer for Faculty as well as the underlying findings of fact and determination(s) of responsibility by the Hearing Officer (or Appeal Officer, if applicable). If the President decides to initiate the procedure for dismissal for cause or for the imposition of another Disciplinary Sanction against a Faculty Respondent, the matter will then follow the process set forth in the subsection "Procedure" of the section of the Appointment and Tenure Policy of Carnegie Mellon University (<https://www.cmu.edu/policies/faculty/appointment-and-tenure-policy.html>) titled, "Dismissal for Cause and Other Sanctions," but will be subject to the "Exceptions" provision of that subsection such that no Ad-Hoc Committee will be required.

F. Appeal Procedures

Except as specified in Section VI.E for Student-Respondent cases, both the Complainant and Respondent have the right to file an appeal regarding (i) the determination under Section VI.E or (ii) the dismissal of a Complaint

under Section VI.B. An appeal must be submitted in writing to the Office of the President (with a copy to the IEX Office) within seven (7) calendar days of the official notification of the determination under Section VI.B or Section VI.E.

The written appeal request must state the basis for the appeal. The basis for an appeal will be limited to one or more of the following:

- Procedural irregularity that affected the outcome of the matter;
- 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;
- The Title IX Coordinator, Investigator(s), Hearing Officer, or Sanctioning Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; and
- The sanctions imposed are disproportionate to the finding of responsibility.

The President or the President's designee will serve as the Appeal Officer. The Appeal Officer will inform the other party or parties that an appeal has been filed and provide such party or parties with a copy of the written appeal. The non-appealing party will have a reasonable, equal opportunity to submit a responsive written statement for consideration by the Appeal Officer. In Student-Respondent cases under Section VI.E where the Complainant does not have the right to appeal, the Complainant will not be provided a copy of the Respondent's Appeal and will not have the opportunity to submit a responsive written statement.

The Appeal Officer will review the written appeal and any response and determine whether, in the judgment of the Appeal Officer, sufficient grounds exist for at least one basis of appeal. An appeal that does not meet at least one of the acceptable bases for appeal may be dismissed without further review.

Appeals will be decided by the Appeal Officer in a timely manner as circumstances warrant. While an appeal is under review, the Appeal Officer will update the Respondent(s) and Complainant(s) as necessary about the anticipated timeline.

The Appeal Officer's review will be based only on the written record, as well as any recordings or transcripts. Any alleged new evidence related to the grounds for the appeal should be appended to the appeal. The appeal is not an opportunity for a re-investigation or re-hearing.

The Appeal Officer has the authority to modify the decision as deemed appropriate for resolution of the matter being appealed, which could entail (i) sending the matter back to an Investigator, the Hearing Officer, or a new Hearing Officer, as necessary to remedy the error or (ii) a decrease or change to the nature of the sanction(s). The Appeal Officer may also remand the matter for a new process under Section VI.D.

The Appeal Officer will issue a written decision describing the result of the appeal and the rationale for the result. The Appeal Officer will provide the written decision simultaneously to both the Complainant and Respondent. The IEX Office will also receive a copy of the decision. The decision is final.

G. Possible Disciplinary Sanctions and Remedies from Adjudication

Possible outcomes from a violation of this Policy range from educational outcomes to separation from the university. A detailed list of the possible remedies and sanctions is available in Appendix A to this Policy (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/appendix-a.html>).

H. Alternative Resolution Process

Sections VI.A through VI.G of this Policy describe procedures for the grievance procedures for Complaints of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>). Separate from these grievance procedures, the university offers an Alternative Resolution Process which may be available on a voluntary basis to resolve a matter under this Policy.

Individuals interested in an Alternative Resolution Process should contact the IEX Office to discuss options. For information regarding the types of Alternative Resolution Process that may be available please see the IEX Office website on Alternative Resolutions (<https://www.cmu.edu/title-ix/how-to-report--options-for-resolution/alternative-resolution-options.html>).

Either party may request to pursue an Alternative Resolution Process at any time before a finding of responsibility resulting from any process under Section VI.D or Section VI.E. Other than in Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>) cases, Alternative Resolution Process may also be requested before the initiation of a Complaint. The Title IX Coordinator has discretion to determine whether the parties will be permitted to pursue an Alternative Resolution Process. In general, mediation and other procedures that are similar to mediation will not be used to resolve matters involving an allegation of sexual violence (i.e. Sexual

Assault, Dating Violence, Domestic Violence, or any other form of Prohibited Conduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#prohibited-conduct>) that involves the use of violence) or when an Employee is accused of sexually harassing a Student. An Alternative Resolution Process is not permitted if such a process would conflict with federal, state, or local law; the university may also decline to permit an Alternative Resolution Process when it determines that the alleged conduct presents a future risk of harm to others.

After receiving a request to pursue an Alternative Resolution Process, the IEX Office will contact both parties to assess mutual interest in the Alternative Resolution Process. If both parties wish to pursue Alternative Resolution, and the Title IX Coordinator agrees that Alternative Resolution is appropriate under the specific facts and circumstances of the case, the IEX Office will initiate the Alternative Resolution Process (<https://www.cmu.edu/title-ix/how-to-report--options-for-resolution/alternative-resolution-options.html>). While every Alternative Resolution Process will be tailored to the facts and circumstances of the individual case, in no case will the facilitator of the Alternative Resolution Process be the same as the investigator or decisionmaker for grievance procedures involving the same matter.

As participation is voluntary, the university does not require parties to waive the right to an investigation and adjudication as a condition of (continuing) enrollment or (continuing) employment, or the exercise of any other right. During any Alternative Resolution Process, either party has the right to withdraw from the process at any time prior to the conclusion of the process. In such cases, if a Complaint is pending at the time of the withdrawal from the Alternative Resolution Process, the matter will proceed to investigation under Section VI.C or to adjudication under Section VI.D, as appropriate.

Before initiating an Alternative Resolution Process, the university will notify the parties of:

- the allegations;
- the requirements and procedures of the Alternative Resolution Process;
- that each party has the right to withdraw their agreement to participate in the Alternative Resolution Process prior to agreeing to a resolution, and can at that time initiate or resume the grievance procedures, as applicable;
- that agreement to a resolution at the conclusion of the Alternative Resolution Process precludes the parties from initiating or resuming grievance procedures arising from the same allegations;
- the potential consequences and outcomes that may be requested or offered in an Alternative Resolution Process agreement, including notice that an alternative resolution agreement is binding only on the parties; and
- information regarding the confidentiality and/or accessibility of the records of the Alternative Resolution, including which records will be maintained as part of the Alternative Resolution Process and circumstances under which such records could be shared in the event that the Alternative Resolution Process is not completed and grievance procedures are initiated or resumed.
 - Specifically, if the grievance procedures are resumed after an attempted Alternative Resolution Process:
 - neither the university nor a party will access, consider, disclose, or otherwise use information, including records, obtained solely through an Alternative Resolution Process as part of the investigation or outcome determination, and
 - in such cases, the Alternative Resolution Process facilitator could serve as a witness for purposes other than providing information obtained solely through the Alternative Resolution Process.

For cases involving alleged Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), after receiving the above notice, both the Complainant and Respondent must provide written consent to the IEX Office in order to proceed with the Alternative Resolution Process. For cases involving alleged Federal Rule Sexual Misconduct (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/definitions.html#federal-rule>), a complaint must be filed prior to the initiation of any Alternative Resolution Process.

I. Student Emergency Removal; Employee Administrative Leave

Where there is an immediate threat to the physical health or safety of any Students or other individuals arising from alleged Prohibited Conduct, the university may remove an individual from the University's Program or Activity in whole or in part and issue any necessary related no-trespass and no-contact orders during the pendency of the investigation. The university will make the decision to remove an individual from the University's Program or Activity based on an individualized safety and risk analysis.

For Students, an emergency removal decision will be made in accordance with the Safety Intervention Protocol (<https://www.cmu.edu/student-affairs/>

[cm-student-handbook/community-policies/safety-intervention-protocol.html](https://www.cmu.edu/student-handbook/community-policies/safety-intervention-protocol.html)) set forth in the Carnegie Mellon Student Handbook, subject to the limitation of this section. In the event the university removes any person on this basis, the university will provide the affected individual with notice of the decision and an opportunity to appeal, as specified in the Safety Intervention Protocol.

With respect to Employee Respondents, subject to the procedures in the Staff Handbook (for staff employees) or the Faculty Handbook and Appointment and Tenure Policy (for faculty employees), an Employee Respondent may be placed on administrative leave from employment during the pendency of grievance procedures under this Policy. Administrative leave may include complete removal from the workplace or limitations on access to the workplace, and may be imposed with or without pay. In the event administrative leave is imposed, the Respondent is given the opportunity to seek modification or reversal of the leave.

VII. Definitions

A. Prohibited Conduct Definitions

Prohibited Conduct means one or more categories of prohibited behavior including:

- Discrimination (including Disparate Treatment);
- Discriminatory Harassment;
- Sexual Harassment, including
 - Quid Pro Quo Sexual Harassment,
 - Hostile Environment Sexual Harassment,
 - Sexual Assault,
 - Dating Violence,
 - Domestic Violence,
- Stalking,
- Retaliation, and
- Violation of Protective Measures.

Definitions for each of the types of Prohibited Conduct are provided below.

Discrimination means subjecting an individual or class of individuals to adverse action, including treating an individual or class of individuals differently ("Disparate Treatment") on the basis of a Protected Class.

Discriminatory Harassment means unwelcome conduct of a verbal, nonverbal, or physical nature, including electronic communication, on the basis of actual or perceived Protected Class, when such conduct

- Based on the totality of the circumstances, evaluated subjectively and objectively, is sufficiently severe or pervasive that it limits or denies a person's ability to participate in or benefit from any University Program or Activity through the creation of a Hostile Environment.

Sexual Harassment means any unwelcome conduct or cues of a sexual nature, whether verbal/aural (sounds), visual/graphic (e.g. pictures and videos), physical, or otherwise, when:

- Submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, education, living environment, or participation in any University Program or Activity (commonly known as Quid Pro Quo);
- Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University Program or Activity (commonly known as Quid Pro Quo); and/or
- Such conduct creates a hostile environment. A hostile environment exists when the unwelcome conduct of a sexual nature is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's participation in a university program or activity or creates an intimidating, hostile, offensive, or abusive environment for that individual's participation in a University Program or Activity (commonly known as Hostile Environment).

Examples of conduct that may constitute Sexual Harassment include but are not limited to:

- Unwanted intentional touching that otherwise does not typically constitute Sexual Assault, defined in this Policy;
- Unwanted sexual advances, including repeated unwanted requests for dates, or repeated unwanted requests for sexual contact;
- Unwanted written, verbal, or electronic statements of a sexual nature, including sexually suggestive comments, jokes, videos or innuendos;

- Exposing one's genitalia, breasts, or buttocks, to another; and/or
- Touching oneself sexually for others to view.

This definition addresses intentional conduct. It also includes conduct that results in negative effects even though such negative effects were unintended. Unwelcome conduct of a sexual nature constitutes Sexual Harassment if a Reasonable Person would consider it sufficiently severe, persistent, or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a university activity or living environment.

Sexual Assault, Dating Violence, Domestic Violence and Stalking (based on sex) are forms of Sexual Harassment. However, for purposes of this Policy, Sexual Assault, Dating Violence, Domestic Violence and Stalking are treated as separate offenses.

Sexual Exploitation means intentionally or knowingly taking sexual advantage of another person or violating the sexual privacy of another when Consent is not present. Sexual Exploitation is a form of Sexual Harassment and includes, but is not limited to, the following actions (including when they are done via electronic means, methods, or devices):

- Engaging in sexual voyeurism, including observing or permitting others to witness or observe the sexual or intimate activity (e.g., disrobing, bathing, toileting) of another person without that person's Consent;
- engaging in indecent exposure, or exposing intimate parts (including genitalia, groin, breasts, and/or buttocks), or causing another to expose intimate parts, when Consent is not present;
- recording or distributing information, images, or recordings of any person engaged in sexual or intimate activity in a private space without that person's Consent;
- prostituting another individual;
- causing Incapacitation of another person (through alcohol, drugs, or other means) for the purpose of compromising that person's ability to give Consent to non-consensual sexual activity; or
- actively aiding or assisting another person in committing an act of Sexual Harassment, including Sexual Assault, Dating Violence, Domestic Violence, and/or Stalking.

Sexual Assault means a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes the following acts:

1. **Rape** means the carnal knowledge of a person, without the Consent of the victim, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity;
2. **Sodomy** means oral or anal sexual intercourse with another person, without the Consent of the victim, including instances where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity;
3. **Sexual Assault with an Object** means to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of the victim, including where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity;
4. **Fondling** means the touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including where the person is incapable of giving consent because of their age or temporary or permanent mental or physical incapacity;
5. **Incest** means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
6. **Statutory Rape** means nonforcible sexual intercourse with a person who is under the statutory age of Consent in the applicable jurisdiction.

In the Commonwealth of Pennsylvania, the age of Consent for sexual activity is 16. Minors aged 16 years of age or older can legally consent to sexual activity with anyone they choose, as long as the other person does not have authority over them as defined in Pennsylvania's institutional sexual assault statute. Minors under the age of 13 cannot consent to sexual activity. Minors aged 13-15 years old cannot consent to sexual activity with anyone who is 4 or more years older than they are at the time of the activity.

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined based on a consideration of the length, type, and frequency of interactions between the persons involved in the relationship.

Domestic Violence means a felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim under the family

or domestic violence laws of the state, or by a person similarly situated to a spouse 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; or by any other person against an adult or youth victim who is protected from that person's acts under the family or domestic violence laws of the jurisdiction.

Stalking means engaging in a course of conduct directed at a specific person that would cause a Reasonable Person to fear for their safety or the safety of others or suffer substantial emotional distress. Stalking based on sex is a form of Sexual Harassment.

Retaliation means intimidation, threats, coercion, discrimination or other adverse action against any person by the university, a Student, or an Employee, or another person authorized by the university to provide aid, benefit, or service under the University's Programs or Activities, for the purpose of interfering with any right or privilege secured by applicable federal, state, or local discrimination laws (e.g., Title IX of the Civil Rights Act of 1972, Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Pennsylvania Human Relations Act, etc.), or because the person has reported information to the university, to an external agency, or to law enforcement; made a Complaint; testified, assisted, participated, or refused to participate, in any manner in an investigation, proceeding, hearing, or alternative resolution under this Policy.

Retaliation includes retaliation by peers ("Peer Retaliation"), such as retaliation by a student against another student but also Retaliation by a student against an employee, or by an employee against a student, as well as by an employee against another employee of more or less senior role. An individual need not be a Complainant or Respondent to have committed or been affected by Retaliation. It is not Retaliation for the university to require an employee, or other person authorized by the university to provide aid, benefits, or services as part of University's Programs or Activities to participate as a witness in, or otherwise assist with, any investigation or adjudication under this Policy.

A finding of Retaliation under this Policy is not dependent on a finding that any alleged underlying Prohibited Conduct occurred. Retaliation is also prohibited by the university's Policy Against Retaliation (<https://www.cmu.edu/policies/administrative-and-governance/whistleblower.html>).

Similarly, charging an individual with a code of conduct violation for making an allegedly materially false statement in bad faith in a Report, Complaint, or in the course of a grievance proceeding under this Policy does not constitute prohibited Retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Violation of Protective Measures

Any violation of an agreement or order that limits an individual's contact or interactions with another individual. Such agreement or order may have been issued under the authority of the university; another institution; or a local, state, or federal government or court.

B. Definitions Relating to Consent

Consent means a knowing and voluntary agreement to engage in sexual activity at the time of the activity. In order to be valid, consent must be knowing, voluntary, active, present, and ongoing. Consent should be demonstrated through mutually understandable words or actions.

- Silence, remaining still or inactive (passive), or not actively resisting sexual activity does not constitute consent.
- Consent to engage in one sexual activity does not mean consent to engage in another sexual activity. Consent must be obtained each time, at each step of sexual activity.
- Prior consent does not mean future consent. Consent must be obtained each time, at each step of sexual activity, even for those in an ongoing sexual relationship.
- Consent can be withdrawn at any time. If one individual withdraws consent through clear words or actions, the other person must cease sexual activity immediately.
- Consent cannot be obtained through Force, Incapacitation, or Coercion (as defined herein).

Consent may be invalid where one party has lied to or knowingly deceived the other party as to the use of internal or external condoms or other single-use devices used to prevent the spread of sexually transmitted infections and/or pregnancy during a sexual encounter.

Force means using physical control (such as restraining a person), physical violence (such as hitting, choking, or displaying a weapon), or threats of either, to cause a person to submit to unwanted sexual activity.

Coercion means using an unreasonable amount of pressure, or threats, that would overcome the will of a Reasonable Person and cause them to submit to unwanted sexual activity.

Coercion requires more than an attempt to persuade someone to engage in sexual activity. Coercion can include threats, such as threats to cause academic, employment, reputational, or economic harm. When one person expresses that they do not consent to sexual activity or are withdrawing consent for sexual activity, applying continued pressure in order to get the person to submit to unwanted sexual activity can be considered Coercion.

Incapacitation means that a person lacks the ability to make informed, deliberate choices about whether or not to engage in sexual activity. A person is Incapacitated — unable to give consent — because they are:

- under the age of consent (see definition of Statutory Rape for additional information);
- physically or mentally helpless;
- asleep or unconscious; or
- unaware that sexual activity was requested, suggested, initiated and/or is taking place.

A person may be Incapacitated by the use of alcohol or other drugs. Incapacitation is a state beyond intoxication or drunkenness. A person is not necessarily Incapacitated solely as a result of drinking or using drugs; the level of impairment must be significant enough to render the person unable to give Consent.

For example, a person who is Incapacitated may not be able to answer some or all of the following questions:

- Do you know where you are?
- Do you know how you got here?
- Do you know what is happening?
- Do you know whom you are with?

A person who is Incapacitated may also demonstrate physical signs including but not limited to:

- slurred or incomprehensible speech;
- unsteady manner of walking or inability to walk; and/or
- vomiting or incontinence (a lack of voluntary control over urination and/or defecation).

If a person under the influence of alcohol or drugs decides to participate in sexual activity that they would not participate in while sober, it does not necessarily mean that the person was Incapacitated or that the Consent was not valid.

Importantly, being impaired by alcohol or other drugs is not a defense to a failure to obtain Consent.

C. Protected Class Definitions

Protected Class

Consistent with the university's Statement of Assurance, "Protected Class" means any legally-protected characteristic, including race, color, national origin, sex, disability, age, sexual orientation, gender identity, pregnancy or related conditions, marital status, parental status, family status, religion, ancestry, veteran status, genetic information or any other class protected from discrimination under federal, state, or local laws or executive orders.

Discrimination or Discriminatory Harassment based on race, color, or national origin includes conduct based on actual or perceived (i) shared ancestry or ethnic characteristics or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity. This could include conduct such as use of ethnic or ancestral slurs; harassment for how a person looks, dresses, or speaks in ways linked to ethnicity or ancestry (e.g. skin color, religious attire, language spoken, tribe, caste, ethnoreligious identity, or any other physical, cultural, linguistic or social characteristics of a group from which a person descends); or stereotypes based on perceived shared ancestral or ethnic characteristics. Examples of such discrimination, include but are not limited to, antisemitic, Islamophobic, anti-Arab, anti-Asian, anti-Israeli, anti-Mexican, and other biased conduct where such conduct meets the definition of any category of Prohibited Conduct under this Policy.

The following definitions of specific categories of Protected Classes are provided as a helpful resource. To the extent these definitions are inconsistent with any applicable federal, state, or local law the university will apply the applicable legal definition.

Expressing a political view or a view on world events will not be cause alone for determination that behavior is Prohibited Conduct under this Policy.

Race means the ancestry or physical or cultural characteristics associated with a certain race, such as skin color, certain facial features, or traits historically associated with race, including hair texture and/or protective hairstyles.

Color means a person's pigmentation, complexion, or skin shade or tone.

National Origin means a group of people sharing a common language, culture, ancestry, race, and/or other social characteristics.

Sex means sex assigned at birth — The assignment and classification of individuals at birth including but not limited to male, female, or intersex and the related physical differences between the sexes, such as pregnancy.

Sexual Orientation means a person's actual or perceived predisposition or inclination toward a particular type of sexual activity or behavior.

Gender Identity means an individual's sense of their gender, which may or may not be different from their sex assigned at birth.

Pregnancy or Related Condition means (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Note, in some jurisdictions, including the City of Pittsburgh, the "partner" of a person who is pregnant or has a pregnancy related condition is protected from discrimination and may be entitled to certain reasonable accommodations. For more information, please see Human Resource's Pregnancy Support and Accommodations Policy [pdf] (<https://www.cmu.edu/hr/assets/hr/pregnancy-support-policy.pdf>).

Parental Status means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is (1) a biological parent, (2) an adoptive parent, (3) a foster parent, (4) a stepparent, (5) a legal custodian or guardian, (6) in loco parentis with respect to such person, or (7) actively seeking legal custody, guardianship, visitation, or adoption of such person.

Marital Status means the state of being married or not married.

Family Status refers to the configuration of a person's family or their role in a family.

Disability means a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

Age

How old a person is.

Religion means all aspects of religious observance, religious practice, religious creed, and religious belief or nonbelief, as defined under Title VII of the Civil Rights Act of 1964 and similar federal, state and local religious discrimination laws. The term "religion" includes head coverings and hairstyles historically associated with religion and/or religious creed.

Ancestry means the common physical, cultural or linguistic characteristics of a person's ancestors.

Veteran Status means status as a person who served in any branch of the U.S. military.

Genetic Information means with respect to any person, information about (i) such person's genetic tests, (ii) the genetic tests of family members of such person, and (iii) the manifestation of a disease or disorder in family members of such person.

D. Policy Definitions

Advisor means an individual who provides support and advice for the Complainant or Respondent. The Complainant and Respondent may have an Advisor of their choice, who may be, but is not required to be, an attorney. It is a non-speaking role.

However, in a live hearing involving an allegation of Federal Rule Sexual Misconduct under Section VI.D.i (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/complaint-resolved.html#d>), the Advisor will have a speaking role, limited to conducting cross-examination on behalf of the party they are advising. If either party does not have an Advisor present at the live hearing, the university will provide, without fee or charge to that party, a substitute Advisor of the university's choice who may be, but is not required to be, an attorney. In this event, the role of the Advisor provided by the university will be limited to the conducting of cross examination on behalf of the party that did not have an Advisor.

Complainant means a Student, Employee, or other person who is alleged to have been subject to conduct that could constitute Prohibited Conduct under this Policy. In some cases, a Complainant may be different from the person who initially reports information to the university. In the event a Complaint is brought by the IEX Office, the individual affected by the alleged Prohibited Conduct that is the subject of the Complaint remains the Complainant, and the Title IX Coordinator does not become the Complainant.

Disciplinary Sanctions

Consequences imposed on a Respondent following a determination that the Respondent is responsible for having committed Prohibited Conduct.

Employee means person who is employed by the university to perform one or more of the following roles: regular instructional faculty, supplemental instructional faculty, research track faculty, visiting faculty, librarians, archivists, curators, graduate student instructors, graduate student staff assistants, graduate student research assistants, postdoctoral research fellows, and all regular and temporary Staff.

Faculty/Faculty Member means all individuals who hold appointments on the tenure-track, research-track, teaching-track, librarian/archivist-track, and special faculty track of the university, as well as individuals holding emeritus faculty status.

Federal Rule Sexual Misconduct is a subset of Prohibited Conduct which meets the definition of Sexual Harassment in the Title IX Regulations at 34 CFR Part 106.30.

Something which meets the definition of category of Prohibited Conduct (defined above) rises to the level of Federal Rule Sexual Misconduct when it meets ALL of the following three conditions:

- The alleged conduct was perpetrated against a person in the United States;
- The conduct took place within the University's Programs and Activities;
- PLUS one or more of the following conditions:
 - A Faculty member or Staff member conditions the provision of an aid, a benefit, or a service on another Faculty member, Staff member, Student, or third party's participation in unwelcome sexual conduct (commonly known as Quid Pro Quo);
 - A Faculty member, Staff member, Student or third party engages in unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies another person equal access to the University's Programs or Activities (commonly known as Sexual Harassment); or
 - A Faculty member, Staff member, Student or third party engages in Sexual Assault, Dating Violence, Domestic Violence or Stalking.

Hostile Environment:

Determining whether conduct has created a Hostile Environment is a fact-specific inquiry which may include many factors such as, but not limited to: the degree to which the conduct affected the Complainant's ability to access a CMU Program or Activity; the type, frequency, and duration of the conduct; the parties' ages, roles, previous interactions, and other factors about each party that may be Relevant to evaluating the effects of the alleged unwelcome conduct; the location and context in which the conduct occurred; and other similar conduct in a CMU Program or Activity.

Other Prohibited Conduct means any Prohibited Conduct that does not meet the definition of Federal Rule Sexual Misconduct.

Complaint means a document — including an electronic submission — filed by a Complainant with a signature or other indication that the Complainant is the person filing the Complaint, or a document signed by the Title IX Coordinator, alleging Prohibited Conduct against a Respondent and requesting initiation of the procedures in this Policy to investigate the allegation(s). It is the policy of the university to confirm a Complainant's request in writing prior to initiating the grievance procedures.

A Complaint can be made by a Complainant¹ or the IEX Office as set forth in Section VI.A (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/complaint-resolved.html#a>). A Complainant must have been enrolled, employed, or otherwise participating or attempting to participate in the university's Programs or Activities at the time the alleged Prohibited Conduct occurred in order to file a Complaint under this Policy, although the Complainant need not be enrolled, employed, or otherwise participating or attempting to participate in the university's Programs or Activities at the time the Complaint is made, although, as discussed above, this may cause a Complaint to be addressed as Other Prohibited Conduct and not Federal Rule Sexual Misconduct (which requires a Complainant to be participating or attempting to participate at the time the Complaint is made).

Preponderance of the Evidence means to prove that something is more likely than not.

Reasonable Person means a person using average care, intelligence, and judgment in the known circumstances.

Relevant

Related to the allegations of Prohibited Conduct at issue and whether or not the alleged Prohibited Conduct occurred. Questions are Relevant if they may aid in showing whether the alleged Prohibited Conduct occurred, and evidence is Relevant if it may aid a decisionmaker in determining whether the alleged Prohibited Conduct occurred. The following evidence

is impermissible (and will not be considered Relevant) even if it would otherwise be considered Relevant:

- evidence protected under a privilege recognized by federal or state law, unless the person holding the privilege has waived it voluntarily;
- records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to a Party or witness, unless the person has voluntarily consented, in writing, to the use of such records in the Grievance Procedures; and/or
- evidence and questions about the Complainant's sexual interests or prior sexual conduct, unless:
 - offered to prove that someone other than the Respondent committed the conduct alleged, or
 - if concerning specific incidents of prior sexual activity with the Respondent which are offered to prove consent.

Such impermissible evidence will not be accessed, considered, disclosed, or used, except to determine whether one of the preceding exceptions applies.

Remedies

Measures provided, as appropriate, to a Complainant or other person whose equal access to the university's Programs and Activities was determined to have been limited or denied by Prohibited Conduct, in order to restore or preserve that person's access.

Report

Any notice of conduct that may constitute Prohibited Conduct. A Report may come from any individual, not just a Complainant. Not every Report is or will result in a Complaint.

Respondent means an individual who is reported to have engaged in Prohibited Conduct. In the event that a Complaint alleges that a university policy or practice discriminates on the basis of Protected Class, the university is not considered a Respondent. In such cases, the university will follow this Policy, including the Grievance Procedures, although the university will, necessarily, not be entitled to certain procedural rights and steps afforded to individual Respondents. In the event a Complaint against an individual Respondent is based on actions the Respondent took in accordance with a university policy or practice, the Complaint may, in the university's sole discretion, be amended to substitute the university as Respondent. This determination will be made after a consideration of factors including, but not limited to, whether the individual was, in fact, following the university policy or practice; what actions the individual took; and whether the individual could be subject to Disciplinary Sanctions.

Staff/Staff Member means all Employees of the university who do not hold faculty appointments. Staff does not include individuals whose primary relationship with the university is as a Student.

Student means a person who gained admission to the university.

University's Programs or Activities

Conduct that takes place in the "University's Programs or Activities" includes locations, events, or circumstances over which the university exercises substantial control over both the Respondent and the context in which the alleged Prohibited Conduct occurred, including any on-campus premises or any buildings or property owned or controlled by a recognized student organization on any of the university's campuses, including Carnegie Mellon University Qatar and Carnegie Mellon University Africa. However, the university will address conduct contributing to a Hostile Environment even if the underlying conduct itself occurred outside the University's Programs or Activities, including if it occurred outside the United States, and including conduct occurring online via computer and internet networks or on digital platforms, including social media sites).

¹ A Complaint may also be brought by a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant, where applicable.

VIII. Title IX Coordinator

Carnegie Mellon has appointed a Title IX Coordinator to oversee the university's compliance with Title IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964, and other applicable federal, state, and local civil rights laws. The Title IX Coordinator is responsible for this Policy, as well as the Statement of Assurance.

The university's Title IX Coordinator is:

Elizabeth Rosemeyer
Assistant Vice Provost & Title IX Coordinator
4615 Forbes Avenue, Suite 330
Pittsburgh, PA 15213
(412) 268-7125

institutionalequity@andrew.cmu.edu

The Title IX Coordinator manages the Office for Institutional Equity and Title IX ("IEX Office"). Employees in the IEX Office are designees of the Title IX Coordinator and may carry out the duties and responsibilities of the Title IX Coordinator. The Title IX Coordinator may also delegate certain responsibilities to other university employees. In this Policy, when the terms Title IX Coordinator or IEX Office are used, they should be understood to include any and all of the Title IX Coordinator's designees.

Appendix A: Possible Disciplinary Sanctions and Remedies (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/appendix-a.html>)

Appendix B: Expert Witness Testimony (<https://www.cmu.edu/policies/administrative-and-governance/sexual-misconduct/appendix-b.html>)