Millersville University **Governance & Policies**

Effective: September 9, 2024

Administration Policy
Sex Discrimination and Sex-Based Harassment Policy

Approved: September 9, 2024

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INTRODUCTION

1. Purpose of Policy

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

On April 29, 2024, the U.S. Department of Education issued a Final Rule under Title IX[1] that:

- Protects all students and employees from all Sex Discrimination prohibited under Title IX, including by restoring and strengthening full protection from sexual violence and other Sex-Based Harassment;
- Promotes accountability by requiring the University to take prompt and effective action to end any Sex Discrimination in their Education Programs or Activities, prevent its recurrence, and remedy its effects;
- Protects against retaliation for students, employees, and others who exercise their Title IX Rights; and
- Clarifies the steps the University must take to protect students, employees, and applicants from discrimination based on pregnancy or related conditions.

In addition to federal legislative requirements, Act 16 of 2019[2] of the General Assembly of Pennsylvania requires all postsecondary institutions in the Commonwealth of Pennsylvania to adopt a clear, understandable written policy on sexual harassment and sexual violence that informs victims of their rights under federal and state law, including the crime victims bill of rights.

2. Prohibited Behaviors

The University prohibits all Sex Discrimination Violations, as defined in this Policy. Sex Discrimination includes Sex-Based Harassment, including sexual assault, domestic violence, dating violence, and stalking, and discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Some of these prohibited forms of conduct may also be crimes under Pennsylvania or federal law.

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[1] The full text of the Final Rule and its extensive Preamble is available here: https://www.govinfo.gov/content/pkg/FR-2024-04-29/pdf/2024-07915.pdf

[2] The text of Act 16 of 2019 is available here: https://bit.ly/3f7DAr6

The University will promptly and equitably respond to all reports of Sex Discrimination in order to eliminate the discrimination, prevent its recurrence, and redress its effects on any individual or the community.

3. Title IX, VAWA and Nondiscrimination

The University prohibits any form of discrimination or harassment on the basis of sex, race, color, age, religion, national or ethnic origin, sexual orientation, gender identity or expression, pregnancy, marital or family status, medical condition, genetic information, veteran status, or disability in any decision regarding admissions, employment, or participation in a University program or activity in accordance with the letter and spirit of federal, state, and local non-discrimination and equal opportunity laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act, the Americans with Disabilities Act and ADA Amendments Act, the Equal Pay Act, and the Pennsylvania Human Relations Act.

The University also complies with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, as amended by the Violence Against Women Act (VAWA). Title IX prohibits retaliation for asserting or otherwise participating in claims of Sex Discrimination. VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled. The University has designated the Title IX Coordinator with assistance of the Deputy Title IX Coordinators, to coordinate the University's compliance with Title IX and VAWA and to respond to reports of violations. The University has directed University Police https://www.millersville.edu/police/police/stats.php to coordinate the University's compliance with the VAWA-related Clery reporting requirements.

4. Parental, Family, Marital Status, or Pregnancy or Related Conditions

Title IX prohibits discrimination against students, employees, or applicants based on parental, family, marital status, or pregnancy or related conditions. The University must take actions to prevent Sex Discrimination and ensure equal access to the University's education program or activity, such as by providing reasonable modifications for students; reasonable break time for lactation for employees; and lactation space for students and employees. The University also has an obligation to inform individuals of their rights in connection with pregnancy or related conditions. For additional information, please see the University's **Parental, Family, or Marital Status, Including Pregnancy and Related Conditions Policy.**

5. Statement on Privacy and Confidentiality

The University is committed to protecting the privacy of all individuals involved in a report of Sex Discrimination. Every effort will be made to protect the privacy interests of all individuals involved. Privacy, confidentiality, and privilege have distinct meanings under this Policy.

Privacy generally means that information related to a report of Sex Discrimination will only be shared with a limited circle of individuals, including individuals who "need to know" in order to assist in the review, investigation, or resolution of the report or to deliver resources or support services. While not bound by confidentiality or privilege, these individuals will be discreet and respect the privacy of all individuals involved in the process. All participants in an investigation of Sex Discrimination under this Policy, including Advisors and Witnesses, will be informed that privacy helps enhance the integrity of the investigation and protect the privacy interests of the parties. The University will take reasonable steps to prevent and address the Parties' and Advisors' unauthorized disclosure of information and evidence obtained solely through the grievance process. However, nothing in this Policy is intended to impose restraints on a Party's ability to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.

Certain individuals are designated as Confidential Employees. For reports made to Confidential Employees, the University will respect the reporting Party's expectations of privacy to the extent permissible by law while still ensuring compliance with other reporting obligations such as mandatory reporting obligations concerning abuse, including sexual misconduct, involving minors. See Mandated Reporting Obligations of University Officials, Volunteers and Employees under the University Reporting Obligations Section below for more information.

When an individual informs a Confidential Employee of conduct that may reasonably constitute a violation of this Policy, the Confidential Employee will inform the individual: (1) of the employee's status as a Confidential Employee, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that may constitute a violation of this Policy; (2) how to contact the Title IX Coordinator to make a complaint of Sex Discrimination; and (3) that the Title IX Coordinator may be able to offer and coordinate Supportive Measures, as well as initiate an informal resolution process or investigation under the resolution procedures of this Policy.

Confidential Employees will not share information with the Title IX Coordinator or any other employee of the University without the express permission of the disclosing Party. Confidential Employees can provide information about the University and off-campus resources, support services and other options. As noted above, because of the confidential nature of these resources, disclosing information to or seeking advice from a Confidential Employee does not constitute a report or Complaint to the University and will not result in a response or intervention by the University. A person consulting with

a Confidential Employee may decide to make a report to the University and/or law enforcement. Communication with certain individuals (Counseling Services and Health Services) may be privileged by operation of law and reports made to these individuals will not be shared with the University Title IX Coordinator or law enforcement except in very limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or as otherwise required by law.

Confidential Employees are:

- Nurses
- Nurse Practitioners
- Licensed Counselors
- Physicians
- Administrative Assistant for Counseling and Health Services

Contact Information for Confidential Employees Offices:

Health Services

717-871-5250

Hservices@millersville.edu

Counseling Services

717-871-7821

All University proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act ("FERPA"), the Clery Act, Title IX of the Education Amendments of 1972 ("Title IX"), Violence Against Women Act ("VAWA"), state and local law, and University policy. No information will be released from such proceedings, except as required or permitted by law and University policy. To the extent that state or local law conflicts with Title IX and the Final Rule, the Final Rule preempts the conflicting state law.

The University may share non-identifying information about reports received to comply with crime reporting requirements, or in aggregate form, including data about outcomes and Disciplinary Sanctions.

6. Disability Accommodations

This Policy does not alter any obligations of the University under federal disability laws including the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities at any point before or during the resolution process that do not fundamentally alter the process. Requests for accommodations may be made to the Title

IX Coordinator and may be referred to another appropriate individual or office on campus. The Title IX Coordinator may consult, as appropriate, with the Office of Learning Services to provide support to students with disabilities or to determine how to comply with the ADA and Section 504. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other University programs and activities.

7. Free Expression and Academic Freedom

Notwithstanding any other provision of this policy, Title IX and University policy do not restrict any rights that would otherwise be protected from government action by the First Amendment of the U.S. Constitution.

The University is firmly committed to free expression and academic freedom and to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community. Sex Discrimination, including Sex-Based Harassment and retaliation, against members of the University is not protected expression nor the protected exercise of academic freedom. The University will respect the Constitutional right of free expression and academic freedom in the investigation of reports of Sex Discrimination, Sex-Based Harassment, or retaliation that involve an individual's statements or speech

8. Alcohol and Drug Use Amnesty for Students

The health and safety of every student at the University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report incidents of Sex Discrimination and Sex-Based Harassment. A witness to or individual who experiences Sex Discrimination or Sex-Based Harassment, acting in good faith, who discloses any incident of Sex Discrimination or Sex-Based Harassment to University officials or law enforcement will not be sanctioned under the University's Student Code of Conduct - https://www.millersville.edu/studentconduct/index.php for violations of alcohol and/or drug use policies occurring at or near the time of the incident (s) of Sex Discrimination or Sex-Based Harassment.

The University may require the individual to attend an approved alcohol or drug education program without assessing any charges for such program. Amnesty does not preclude or prevent action by police or other legal authorities pursuant to relevant state or federal criminal statutes.

9. Scope of Policy

This Policy applies to both on-campus and off-campus conduct. There is no time limit

for reporting allegations of Sex Discrimination; however, the University strongly encourages the prompt reporting of Sex Discrimination to allow the University to respond promptly and effectively. If the reported Respondent is not a member of the University community or is no longer associated with the University at the time of the report or at the time a resolution process is initiated, the University may be unable to investigate or take disciplinary action and may dismiss the Complaint. See the Discretionary Dismissals section below.

For Sex Discrimination Complaints and Sex-Based Harassment Complaints involving only Students as Parties, the matter must be reported to the University's Title IX Coordinator and will be resolved under the procedures outlined in this Policy.

For Sex-Based Harassment Complaints where one of the Parties is a student, the matter must be reported to the University's Title IX Coordinator and will be resolved under the procedures outlined in this Policy

For discrimination and harassment Complaints based on a protected class other than sex, sexual orientation, or gender identity where a student is a Respondent, the matter should be referred to the Student Conduct Office - https://www.millersville.edu/studentconduct/index.php and will be resolved under the procedures outlined in the University's Student Code of Conduct - https://www.millersville.edu/studentconduct/index.php.

For all other Complaints of discrimination or harassment involving Officials, Contractors, Volunteers, Employees, Students, or other persons, the matter should be referred to Office of Human Resources or Diversity and Social Justice or other designated office and will be resolved under the procedures outlined in the Nondiscrimination Policy.

Complainant	Respondent	Type of Alleged Offense	Report To this Office	Policy Governing Procedures		
Student	Student	Non-Sex-Based Discrimination or Harassment	Office of Student Conduct	Student Code of Conduct		
				Sex Discrimination or Sex-Based Harassment	Title IX Coordinator	Sex Discrimination Policy
				Employees or Third Parties (including Officials, Volunteers and Contractors)	Non-Sex-Based Discrimination or Harassment	Office of Human Resources or other designated office	Non-Discrimination Policy		
				Sex Discrimination	Title IX Coordinator and Office of Human Resources	Non-Discrimination Policy
				Sex-Based Harassment	Title IX Coordinator	Sex Discrimination Policy

Contact Information for Offices

Office of Student Conduct
717-871-5841
Student.conduct@millersville.edu

Title IX Office
717-871-4100
Mutitlecoordinator@millersville.edu

10. Burden of Proof

The burden of proof refers to who has the responsibility of showing a violation has occurred. It is always the responsibility of the University to satisfy the burden of proof. The Respondent does not have the burden to prove that a violation did not occur. Respondents may decide not to share their side of the story or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and does not indicate responsibility. Additionally, Decision Maker(s) shall not make an adverse inference against a Respondent for the Respondent's refusal to participate in an investigation or hearing, nor will Respondent's refusal to participate result in increased sanctions if the Respondent is found responsible for the violation(s).

11. Standard of Proof

Consistent with requirements set forth in the Pennsylvania Code pertaining to student disciplinary due process requirements, the University will use the preponderance of the evidence standard in investigations of Complaints alleging Sex-Based Harassment violations under this Policy. This means that the individual(s) making a finding of responsibility must determine whether it is more likely than not that a violation of the policy occurred.

12. Effective Date

Based on the Final Rule, this Policy will be effective August 1, 2024.

13. Impact on other Policies or Processes

As used in this Policy, Sex Discrimination may also encompass criminal conduct under Pennsylvania and/or federal law. Additionally, Sex Discrimination under this Policy may result in civil and/or administrative or legal consequences.

14. Revocation by Operation of Law

Applicability of the Title IX Final Rule, 89 Fed. Reg. 33474 (April 29, 2024), is subject to future legislative or court actions. Should any portion of the Title IX Final Rule be set aside, stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require any of the elements of this Policy then this Policy,

or the invalidated elements of this Policy will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication.

SEX DISCRIMINATION DEFINITIONS

1. **Retaliation** – Intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity, (a) for the purpose of interfering with any right or privilege secured by Title IX, or (b) because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing, including in an informal resolution process, in grievance procedures, and any other actions taken by the University.

   Peer Retaliation is retaliation by a student against another student.

   Nothing precludes the University from requiring an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing**.**

2. **Sex Discrimination** – Discrimination on the basis of sex includes discrimination on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. This includes discrimination based on perceived identity whether that perception is accurate or not.

3. **Sex-Based Harassment –** A form of Sex Discrimination, which includes Sexual Harassment and other harassment on the basis of sex, including:

   A. ***Quid Pro Quo Harassment*** – An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

   B. ***Hostile Environment Harassment*** – Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

i. The degree to which the conduct affected the Complainant's ability to access the University's education program or activity;

ii. The type, frequency, and duration of the conduct;

iii. The Parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct;

iv. The location of the conduct and the context in which the conduct occurred; and

v. Other Sex-Based Harassment in the University's education program or activity; or

C. Specific Offenses

i. ***Sexual Assault*** – An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, as follows:

1. **Sex Offenses, Forcible** - Any sexual act directed against the Complainant, without the Consent of the Complainant including instances where the Complainant is incapable of giving Consent, including the following:

a. **Forcible Rape** (Except Statutory Rape) – Vaginal sexual intercourse with the Complainant without the Complainant's Consent.

b. **Forcible Sodomy** - Oral or anal sexual intercourse with the Complainant without the Complainant's Consent.

c. **Sexual Assault with An Object** - To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of the Complainant without the Complainant's Consent.

d. **Forcible Fondling**—The touching of the private body parts of the Complainant for the purpose of sexual gratification without the Complainant's Consent.

2. **Sex Offenses, Nonforcible** (Except Prostitution Offenses) - Unlawful, nonforcible sexual intercourse, including the following:

a. **Incest -** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

b. **Statutory Rape -** Nonforcible sexual intercourse with a person who is under the statutory age of consent. The age of consent for sexual activity in Pennsylvania is 16. 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 the Minor is at the time of the activity. Minors aged 16 years of age or older can legally consent to sexual activity, as long as the other person does not have authority over them as defined in Pennsylvania's institutional sexual assault statute, 18 Pa.C.S.A. § 3124.2.

ii. ***Dating Violence*** – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on a consideration of the length and type of relationship and the frequency of interaction between the parties involved in the relationship.

iii. ***Domestic Violence*** – Violence committed by a person who:

1. Is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of the jurisdiction of the University, or a person similarly situated to a spouse of the Complainant;

2. Is cohabitating, or has cohabitated, with the Complainant as a spouse or intimate partner;

3. Shares a child in common with the Complainant; or

4. Commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of the jurisdiction.

iv. ***Stalking*** – Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

OTHER DEFINITIONS

1. **Advisor** – An individual who may be present to provide support to a Party throughout an investigation and/or hearing.
   A. Advisors may accompany a Party to any meeting or hearing the Party is required or eligible to attend but may not speak for the Party.
   B. Each Party is responsible for coordinating and scheduling with their Advisor of choice.
   C. The Advisor of choice may be an attorney or a union representative (when applicable) or other individual selected by the Party.
   D. The Advisor is not prohibited from having a conflict of interest or bias in favor of or against a Party, nor is the Advisor prohibited from being a Witness in the Sex Discrimination Resolution Process.
   E. If a Party does not have an Advisor of choice, the University will provide the name of an available Advisor upon request.

2. **Appeals Officer** – The individual or individuals with the authority under law or otherwise appointed by the University to decide appeals. The Appeals Officer will be free of conflict of interest and bias, and will not serve as the Investigator, Title IX Coordinator, Advisor to any Party, or a Decision Maker in the same matter.

3. **Complainant** – An individual who is: 1) a student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination under Title IX; or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Sex Discrimination under Title IX and who was participating or attempting to participate in the University's education program or activity at the time of the alleged Sex Discrimination.

4. **Complaint** – An oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged Sex Discrimination under Title IX.

5. **Confidential Employee** – An individual who is:

    A. An employee of the University whose communications are privileged or confidential under Federal or State law. The employee's confidential status only extends to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

    B. An employee of the University whom the University has designated as confidential for the purpose of providing services to persons related to Sex Discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status only extends to information received about Sex Discrimination in connection with providing those services; or

    C. An employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about Sex Discrimination—but the employee's confidential status only extends to information received while conducting the study.

6. **Consent** – A knowing and voluntary agreement to engage in specific sexual activity at the time of the activity communicated through clear actions and/or words that are mutually understood.

    In order to be valid, Consent must be active, present, and ongoing.

    Consent is not present when it is the result of coercion, intimidation, force, or threat of harm.

    Consent is not present when an individual is incapacitated due to alcohol, drugs, or

sleep, or otherwise without capacity to provide Consent due to intellectual or other disability or other condition. Consent can be withdrawn at any time and consent to one form of sexual activity is not necessarily consent to other forms of sexual activity.

When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence of or impaired by the use of the drug. Alcohol and other drugs impact each individual differently. Determining whether an individual is incapacitated requires an individualized determination. When determining whether a person has the capacity to provide Consent, the University will consider whether a sober, reasonable person in the same position knew or should have known that the other Party could or could not consent to the sexual activity.

When determining whether Consent has been provided, all circumstances of the relationship between the Parties will be considered.

7. **Days –** Unless otherwise stated, calculated as business days when the University is officially open.

8. **Decision Maker(s)** – The individual or individuals appointed by the University to render a decision on a Complaint that goes to a hearing. The Decision Maker(s) will be free of conflict of interest and bias and will not serve as an Advisor to any Party or Appeals Officer in the same matter.

9. **Disciplinary Sanction** – A consequence imposed on a Respondent following a determination under Title IX and this Policy that the Respondent violated the University's prohibition on Sex Discrimination. For Students, Disciplinary Sanctions are subject to applicable University/System policies, up to and including expulsion from the University. For Employees, Disciplinary Sanctions are subject to applicable collective bargaining agreements or University/System policies, up to and including separation from employment. For Officials or Volunteers, this may include the removal or the request for removal of the Official or Volunteer from their respective position.

10. **Education Program or Activity** – Conduct that occurs under a University's "Education Program or Activity" includes, but is not limited to:
    A. Conduct that occurs in any on-campus premises;
    B. Conduct that occurs in any off-campus premises the University has substantial control over. This includes buildings or property owned or controlled by a recognized student organization or a recognized affiliated entity;
    C. Conduct that occurs using computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University's programs and activities over which the University has substantial control; and
    D. Conduct that is subject to the University's disciplinary authority.

    In addition to the above, the University's obligation to address allegations of Sex Discrimination extends to conduct that contributes to a hostile environment within the

University's Education Program or Activity even when the conduct occurred outside the University's Education Program or Activity or outside the United States.

11. **Employee** – An individual who is employed by the State System (either at a State System University or in the Office of the Chancellor) including, but not limited to, faculty members, coaches, staff, managers, and student employees.
12. **Final Rule** – The Final Rule issued on April 29, 2024, by the U.S. Department of Education under Title IX of the Education Amendments of 1972.
13. **Gender Identity** – An individual's sense of their gender, which may or may not be different from their sex assigned at birth.
14. **Hearing Officer** – Refers to an individual designated by the Title IX Coordinator to hold Title IX hearings, including the administration of the hearing & imposing sanctions.

15. **Investigator** – The Title IX Coordinator or the individual designated by the Title IX Coordinator to perform an investigation under this Policy. The Investigator may not have a conflict of interest or bias for or against an individual Party, or for or against complainants or respondents in general. The Investigator may not serve as an Appeals Officer or Advisor to any Party in the same matter.

16. **Notice of Allegations** – The written notice the Title IX Coordinator or designee is required to provide to the Parties following receipt of a Complaint. See Notice of Allegations section below.

17. **Notice of Hearing** – The written notice the Title IX Coordinator or Hearing Chair or other designee is required to provide the Parties prior to the hearing. See Notice of Hearing section below.

18. **Official** – A member of a Council of Trustees or of the Board of Governors or their respective designees.
19. **Parties or Party** – A term that refers to the Complainant and the Respondent collectively or the Complainant or Respondent individually.
20. **Pregnancy or Related Conditions –** Includes: 1) pregnancy, childbirth, termination of pregnancy, or lactation; (2) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
21. **Relevant** – Related to the allegation of Sex Discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged Sex Discrimination occurred.
22. **Remedies** – Measures provided, as appropriate, to a Complainant or any other person the University identifies as having had their equal access to the University's education program or activity limited or denied by Sex Discrimination. These measures are provided to restore or preserve that person's access to the University's education program or activity after the University determines that Sex Discrimination

occurred.

23. **Respondent** – A person who is alleged to have violated the University's prohibition on Sex Discrimination as defined under this Policy.
24. **Sex Characteristics** – A person's anatomy, hormones, and chromosomes associated with male or female bodies.
25. **Sex Stereotypes** – Fixed or generalized expectations regarding a person's aptitudes, behavior, self- presentation, or other attributes based on sex.
26. **Student** – A person who has gained admission to the University. Admission means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculations in or at an education program or activity operated by the University. The term "Student" shall include Employees, Volunteers and Officials where the Employee, Volunteer or Official has gained admission to the University, an individual determination has been made by the University that the Party's primary relationship with the University is to receive an education, and the alleged Sex-Based Harassment did not occur while the Party was performing employment-related work.
27. **Supportive Measures** – Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

    A. Restore or preserve that Party's access to the University's education program or activity, including measures that are designed to protect the safety of the parties or the University's educational environment; or

    B. Provide support during the University's grievance procedures or during the informal resolution process.

    Supportive Measures will be offered, as appropriate, to the Complainant or the Respondent, regardless of whether a Complaint is filed. Supportive Measures may include, but are not limited to counseling, extensions of deadlines or other course-related adjustments, campus escort services, increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties (no contact agreements or orders), changes in class, work, housing, or extracurricular or any other activity regardless of whether there is a comparable alternative; and training and education programs related to Sex-Based Harassment.
28. **Title IX Coordinator** – The individual designated by the University with assistance of the Deputy Title IX Coordinators, to coordinate the University's compliance with Title IX and VAWA and to respond to reports of violations. The Title IX Coordinator may not have a conflict of interest or bias for or against an individual Party, or for or against complainants or respondents in general. The Title IX Coordinator may serve as the Investigator of a Complaint. The Title IX Coordinator may serve as the Investigator of a Complaint for Complaints against Respondents who are Employees. The Title IX Coordinator may not serve as an Appeals Officer or as an Advisor to any Party.
29. **Volunteer** – A recognized individual who represents or acts on behalf of the

University or whose actions may bind the University, regardless of whether the individual receives monetary or other compensation. For purposes of this Policy, employees and officials of recognized affiliated entities, ROTC instructors, visiting professors, and unpaid camps and conference personnel will be considered Volunteers.

30. **Witness** – A person who has knowledge related to specific aspects of a case and may have reported such aspects to the institution.

REPORTING SEX DISCRIMINATION

Any individual, including a third party, may make a report concerning Sex Discrimination. Complainants and third-parties are encouraged to report Sex Discrimination as soon as possible to allow the University to respond promptly and effectively.

The University, when notified of conduct that may reasonably constitute Sex Discrimination under Title IX, is required to take action to promptly and effectively end any Sex Discrimination in the University's education program or activity, prevent its recurrence, and remedy its effects. Reports to the Title IX Coordinator by Officials, Volunteers and Employees shall not automatically result in corrective measures being instituted. Individuals may make a report of Sex Discrimination directly to the Title IX Coordinator or Deputy Title IX Coordinator (s), or through the University's electronic and anonymous reporting systems or by filing a Complaint.

1. Reports to the Title IX Coordinator

Any person may report Sex Discrimination, including Sex-Based Harassment (whether or not the person reporting is the person alleged to be the person subjected to conduct that could constitute Sex Discrimination or Sex-Based Harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or Deputy Title IX Coordinator (s), or by any other means that results in the Title IX Coordinator or Deputy Title IX Coordinator (s) receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:

Name: Miguel A. Pereira III

Title: Title IX Coordinator

Office Address: Dilworth Building, Room 105

Email Address: mutitleixcoordinator@millersville.edu

Telephone Number: 717-871-4100

Contact Information for the Millersville University Deputy Title IX Coordinators:

Name: Lori Austin

Title: Deputy Title IX Coordinator

Office Address: Witmer Building

Email Address: lori.austin@millersville.edu

Telephone Number: 717-871-5841

Name: Wendy Bowersox

Title: Deputy Title IX Coordinator

Office Address: Dilworth Building

Email Address: wendy.bowersox@millersville.edu

Telephone Number: 717-871-4752

Name: Melissa Wardwell

Title: Deputy Title IX Coordinator

Office Address: Huntingdon House

Email Address: melissa.wardwell@millersville.edu

Telephone Number: 717-871-7655

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator and Deputy Title IX Coordinator (s). If a report is received after business hours, it is considered received the next business day.

The University's Title IX Coordinator Deputy Title IX Coordinator (s) are trained to work with individuals who report Sex Discrimination and have knowledge about resources and services, both on and off campus, including the availability of Supportive Measures.

If a report of Sex Discrimination discloses a serious or immediate threat to the campus community, the University will issue a timely warning to the community to protect the health or safety of the community. The timely warning will not include any identifying information about the Complainant.

PLEASE NOTE: Title IX Coordinators are not a confidential source of support. While they will address matters reported with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. To speak with a Confidential

Employee, please contact

Contact Information for Confidential Employees:

Health Services

717-871-5250

Hservices@millersville.edu

Counseling Services

717-871-7821

PLEASE ALSO NOTE: Making a report is different from filing a Complaint (see the section titled Filing a Complaint). A report is defined as notification of an incident of Sex Discrimination to the Title IX Coordinator, designee, Deputy Title IX Coordinator (s) by any person. A report may be accompanied by a request for (1) Supportive Measures; (2) no further action; (3) filing a Complaint; and/or (4) a request to initiate an informal resolution process, if available. Filing a Complaint initiates the University's investigation process. See Sex Discrimination Resolution Process below.

2. Electronic and Anonymous Reporting

You may also file a report about Sex Discrimination using the appropriate links below. While anonymous reports are accepted, the University's ability to address Sex Discrimination reported anonymously is significantly limited.

Individuals may use this link - https://www.millersville.edu/titleix/reporting_options.php to electronically file a report of Sex Discrimination with the University.

Individuals may also file a report electronically by email to: mutitleixcoordinator@millersville.edu

3. Filing a Complaint

The timeframe for the Sex Discrimination Resolution Process under this Policy begins with the filing of a Complaint and will be concluded within a reasonably prompt manner, and usually no longer than 120 days after the filing of the Complaint, provided that the Process may be extended for a good reason, as set forth more fully in the Continuances and Granting Extensions section. Appeals may extend the timeframe for resolution.

To file a Complaint, a Complainant may make an oral or written request to the Title IX Coordinator for the University to investigate and make a determination about alleged discrimination under Title IX.

If a Complainant does not wish to make a Complaint, the Title IX Coordinator may determine a Complaint is necessary. To make a fact-specific determination about whether to initiate a Complaint, the Title IX Coordinator will consider the following factors:

1. the Complainant's request not to proceed with initiation of a Complaint;

2. the Complainant's reasonable safety concerns regarding the initiation of a Complaint;

3. the risk that additional acts of Sex Discrimination would occur if a Complaint is not initiated;

4. the severity of the alleged Sex Discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or the imposition of another disciplinary sanction;

5. the age and relationship of the parties including whether the Respondent is an employee;

6. the scope of the alleged Sex Discrimination, including information suggesting a pattern, ongoing Sex Discrimination, or Sex Discrimination alleged to have impacted multiple individuals;

7. the availability of evidence to assist a Decision Maker in determining whether Sex Discrimination occurred; and

8. whether the University could end the alleged Sex Discrimination and prevent its recurrence without initiating its grievance procedures under this Policy.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a Complaint. The University will inform the Complainant of the decision to initiate a Complaint in writing, and the Complainant need not participate in the process further but will receive all notices issued under this Sex Discrimination Resolution Process. The Title IX Coordinator will provide Supportive Measures to appropriately address the Complainant's safety concerns.

PLEASE NOTE: The Title IX Coordinator does not lose impartiality solely due to initiating a Complaint.

A Complainant who files a Complaint may elect, at any time, to address the matter through the Informal Resolution Process, if available. See the Informal Resolution section below.

4. Public Awareness Events

When the University's Title IX Coordinator is notified of information about conduct that reasonably may constitute Sex-Based Harassment under this policy that was provided by a person during a public event to raise awareness about Sex-Based Harassment that was held on Millersville's campus or through an online platform sponsored by it, the University is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a Complainant, any students, employees, or other persons.

However, in all cases the University must use this information to inform its efforts to prevent Sex-Based Harassment, including by providing tailored training to address alleged Sex-Based Harassment in a particular part of its Education Program or Activity or at a specific location when information indicates there may be multiple incidents of sex-based harassment.

Nothing in Title IX or this policy obligates the University to require its Title IX Coordinator or any other employee to attend such public awareness events.

5. Criminal Reporting Options

A Complainant may also seek to initiate a criminal complaint, independent of or parallel with any report made to the University.

University police information

717-871-4357

Boyer Building

37 W. Fredrick Street

Millersville, PA 17551

Local law enforcement information

Manor Township Police Department

717-299-5231

950 W Fairway Dr

Lancaster, PA 17603

Millersville Borough Police Department

717-872-4657

100 Municipal Dr

Millersville, PA 17551

State Police information

Pennsylvania State Police

717-299-7650

2099 Lincoln Hwy E

Lancaster, PA 17602

PLEASE NOTE: The University's policy, definitions, and burden of proof may differ from Pennsylvania criminal law. Neither law enforcement's decision whether to prosecute, nor the outcome of any criminal prosecution, is determinative of whether Sex Discrimination has occurred under this Policy. In cases where there is a simultaneous law enforcement investigation, there may be circumstances when the University may need to temporarily delay its investigation while law enforcement gathers evidence. However, the University will generally proceed with Complaint even during the time of a pending law enforcement investigation.

Law enforcement agencies may or may not inform the University of reports made to them.

6. External Reporting Options

A person may also file a complaint with the U.S. Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by calling 1-800-421-3481 : 1-877-521-2172 TTY or emailing OCR.Philadelphia@ed.gov or visiting https://www2.ed.gov/about/offices/list/ocr/complaintintro.html.

A person may also file a complaint with the Pennsylvania Human Relations Commission by calling 717-787-9780 for the Harrisburg Regional Office; 412-565-5395 for the Pittsburgh Regional Office; or 215-560-2496 for the Philadelphia Regional Office; or by visiting https://www.phrc.pa.gov/Pages/default.aspx.

Employees may also file a charge with the Equal Employment Opportunity Commission regarding an alleged violation of Title VII by calling 1-800-669-4000 or visiting https://www.eeoc.gov/employees/howtofile.cfm.

External agencies may or may not inform the University of reports made to them.

7. Truthfulness

All participants in the reporting and resolution processes have the responsibility to be truthful with the information they share at all stages of the process. A report of a violation under this Policy is not considered a bad faith report merely because the evidence does not ultimately support the allegation. Individuals are prohibited from knowingly making a false report, filing a false Complaint or making misrepresentations. If an investigation results in a finding that a person has willfully filed a bad faith report, filed a false

Complaint, or made misrepresentations as part of the reporting or resolution process, the person may be subject to appropriate Disciplinary Sanctions under the Code of Conduct in the case of Students or other relevant University policy and collective bargaining agreements in the case of Officials, Employees or Volunteers.

8. Consolidation of Complaints

The Title IX Coordinator may consolidate complaints of Sex Discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of Sex Discrimination arise out of the same facts or circumstances. Each Party is still an "individual" and not a group or organization. The decision of the Title IX Coordinator to consolidate Complaints is not subject to appeal.

UNIVERSITY REPORTING OBLIGATIONS

1. Mandated Reporting Obligations of University Officials, Volunteers and Employees

All University Officials, Volunteers and Employees (including student employees) are obligated to report incidents of Sex Discrimination of which they become aware to the Title IX Coordinator/designee, unless they serve in a role that makes such reports privileged or are identified as a Confidential Employee. See Statement on Privacy and Confidentiality below.

PLEASE NOTE: These reporting exceptions do not apply to reports of sexual misconduct involving an individual who was, or is, a child (a person under 18 years of age) when the abuse allegedly occurred. When a report involves suspected abuse of a child (an individual under the age of 18 at the time of the incident(s) as reported), all University Employees, Officials and Volunteers are required to notify the University police and the ChildLine run by the Pennsylvania Department of Human Services (1-800-932-0313). All other members of the University community are strongly encouraged to report suspected child abuse to law enforcement or the ChildLine.

University Employees designated as Campus Security Authorities ("CSAs") under the Clery Act are required to report certain crimes for federal statistical reporting purposes.

2. University Obligations Regarding Timely Warnings

Parties reporting Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking should be aware that under the Clery Act, the University must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. If a report of Sex-Based Harassment discloses a serious or immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the Complainant.

SUPPORTIVE MEASURES

Complainants who report allegations of Sex Discrimination or Sex-Based Harassment have the right to receive Supportive Measures from the University regardless of whether they file a Complaint. Supportive Measures are non-disciplinary and non-punitive. Supportive Measures may vary depending upon what is reasonably available at the University.

As appropriate, Supportive Measures may include, but are not limited to:

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services, as available
- Restrictions on contact applied to one or more Parties (no contact orders)
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Training and education programs related to Sex Discrimination and Sex-Based Harassment

Supportive Measures must not unreasonably burden either Party and must be designed to protect the safety of the Parties or the University's educational environment, or to provide support during the Sex Discrimination Resolution Procedure or Informal Resolution process under this Policy.

The University may modify or terminate Supportive Measures at the conclusion of the grievance procedure or at the conclusion of the informal resolution process or may continue them beyond that point within the University's discretion.

The University will not disclose information about any Supportive Measures to persons other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to the University's education program or activity, or there is an exception that applies, such as:

- The University has obtained prior written consent from a person with the legal right
  to consent to the disclosure;

- When the information is disclosed to an appropriate third party with the legal right to
  receive disclosures on behalf of the person whose personally identifiable information is at
  issue;

- To carry out the purpose of the policy when it is necessary to address conduct that reasonably may constitute Sex Discrimination or Sex-Based Harassment under Title IX in the University's education program or activity;

- As required by federal law, federal regulations, or the terms and conditions of a federal
  award; or

- To the extent such disclosures are not otherwise in conflict with Title IX, when required
  by state or local law or when permitted under FERPA (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

The University provides for a Complainant or Respondent to seek modification or reversal of the University's decision to provide, deny, modify or terminate a Supportive Measure by submitting, in writing, a challenge to the Title IX Coordinator for review. Grounds for challenge of Supportive Measures include, but are not limited to:

- Whether a Supportive Measure is reasonably burdensome;
- Whether a Supportive Measure is reasonably available;
- Whether a Supportive Measure is being imposed for punitive or disciplinary reasons;
- Whether the Supportive Measure is being imposed without fee or charge; and
- Whether the Supportive Measure is effective in meeting the purposes for which it is
  intended, including to restore or preserve access to the Education Program or Activity,
  provide safety, or provide support during the grievance procedure.

The Title IX Coordinator will have the authority to modify or reverse the decision if they determine that the decision to provide, deny, modify, or terminate the Supportive Measure was inconsistent with the procedures as outlined above for providing Supportive Measures in accordance with the Title IX regulations.

Parties may only challenge their own individual Supportive Measures. Challenges by one Party to Supportive Measures afforded to the opposite Party will not be heard unless that Supportive Measure directly impacts the Party making such challenge (i.e., two-way no contact orders).

EMERGENCY REMOVAL FOR STUDENTS

1. The University retains the authority to remove a Respondent from its Education Programs or Activities on an emergency basis. This action is also referred to as an emergency removal.
2. Before imposing an emergency removal on a student Respondent, the University will:
   A. undertake an individualized safety and risk analysis; and
   B. determine that an imminent and serious threat to the health or safety of a

Complainant or any student, employee, or other individual arising from the allegations of Sex Discrimination justifies a removal.

3. If the University imposes an emergency removal on a student Respondent, the University will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
    A. The University will provide written notice of the emergency removal and applicable charges.
    B. The University will convene a hearing with an appropriate Hearing Officer or designee within 10 days of the imposition of the emergency removal.
    C. The designated University Hearing Officer will hear the evidence and determine whether there is sufficient evidence to support the conclusion that the Respondent poses an imminent and serious threat to the health or safety of a Complainant or any student, employee, or other individual arising from the allegations of Sex Discrimination and that, based on that threat, removal is the appropriate course of action.
4. If the University learns of evidence that demonstrates that the emergency action is no longer justified after the emergency removal is imposed against a student Respondent, the University will take prompt action to rescind the emergency removal.
5. All emergency removals will also comply with requirements under Chapter 505 of Title 22 of the Pennsylvania Code pertaining to student disciplinary due process requirements.

ADMINISTRATIVE LEAVE FOR EMPLOYEES

The University retains the authority to place Employees on administrative leave consistent with applicable requirements of relevant University policies and collective bargaining agreements.

INFORMAL RESOLUTION PROCESS

Informal means of resolution, such as mediation, may be used as an alternative to the investigation and hearing procedures. Informal resolution is a voluntary process and may be used at any time prior to determining whether Sex Discrimination occurred, upon the written agreement of the Parties. The facilitator for the informal resolution process must not be the same person as the Investigator or Decision Maker(s) in the University's grievance procedures. The University has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute Sex Discrimination under Title IX or when a Complaint of Sex Discrimination is made. The University may decline to offer informal resolution despite one or more of the Parties' wishes, in instances such as when the University determines that the alleged conduct would present a future risk of harm to others.

Prior to the initiation of the informal resolution process, the University must provide to the Parties notice that explains:

1. The allegations;

2. The requirements of the informal resolution process;

3. That, prior to the agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and to initiate or resume the grievance procedures;

4. That the Parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the Parties from initiating or resuming grievance procedures arising from the same allegations;

5. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal agreement is binding only on the Parties; and

6. What information the recipient will maintain and whether and how the recipient could disclose such information for use in grievance procedures if such procedures are initiated or resumed.

Informal resolution may not be utilized when a student files a Complaint against a University Employee, Volunteer or Official under this Policy.

More information on Informal Resolution processes available can be found here [link to information resolution process for institution: https://www.millersville.edu/policies/pdf/social-equity/discrimination-harassment-complaint.pdf

If a Party breaches an informal resolution agreement or if the University has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, the University may void the agreement and initiate or resume the Sex Discrimination Resolution Process.

SEX DISCRIMINATION RESOLUTION PROCESS

1. Complaint

The Sex Discrimination Resolution Process is initiated by a Complainant providing the Title IX Coordinator or Deputy Title IX Coordinator (s) an oral or written request to investigate and make a determination about alleged discrimination under Title IX, or by the Title IX Coordinator filing a Complaint. See the section titled Filing a Complaint above.

2. Notice of Allegations

The Title IX Coordinator will draft and provide a written Notice of Allegations to any Party alleged to have violated this Policy. Such notice will occur as soon as practicable, but no more than 10 days after the University receives a Complaint of the allegations, if there are no extenuating circumstances.

The Notice of Allegations will include the following:

A. Notice of the University's Sex Discrimination Resolution Process including any Informal Resolution process and a hyperlink to a copy of the process.
B. Notice of the allegations potentially constituting violations(s) of any University policy, and sufficient details known at the time the Notice of Allegations is issued, such as the identities of the parties involved in the incident, if known, including the Complainant; the conduct allegedly constituting a policy violation; and the date and location of the alleged incident, if known.
C. A statement that retaliation is prohibited.
D. A statement that the parties are entitled to an equal opportunity to access a written Investigative Report that accurately summarizes the relevant and not otherwise impermissible evidence.
E. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the hearing.
F. A statement that the Parties may have an Advisor of their choice.
G. A statement that individuals are prohibited from knowingly filing a false report or making misrepresentations. If, following an investigation and hearing as appropriate under applicable policy, a person is found to have willfully filed a bad faith report or made misrepresentations as part of a resolution process, the Party may be subject to appropriate Disciplinary Sanctions under the Code of Conduct in the case of Students or other relevant University policy in the case of Officials, Employees or Volunteers.

The Parties will be notified by their university email accounts if they are a student or Employee, and by other reasonable means if they are neither. It is the responsibility of the Party to update the Title IX Coordinator or Deputy Title IX Coordinator (s) of any email address or other changes to the means of contact.

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

3. Discretionary Dismissals

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

A. The University is unable to identify the Respondent after taking reasonable steps to do so;

B. The Respondent is not participating in the University's Education Program or Activity and is not employed by the University;

C. The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex Discrimination under Title IX; or

D. The University determines the conduct alleged in the Complaint, even if proven, would not constitute Sex Discrimination under Title IX.

Prior to dismissing the Complaint, the University must make reasonable efforts to clarify the allegations with the Complainant. Any Party may appeal a dismissal using the process set forth in the Appeals section below. The University must obtain the Complainant's withdrawal in writing if dismissing a Complaint based on the Complainant's voluntary withdrawal of the Complaint or as outlined in Section 3(C) above.

4. Notice of Dismissal

Upon reaching a decision that any specific allegation contained in the Complaint will be dismissed, the University must provide the Parties, simultaneously, with written notice of the dismissal and the basis for the dismissal. Notice will be sent through their institutional or other provided email account. However, if the dismissal occurs before the Respondent has been notified of the allegations, the University must provide such written notice only to the Complainant. The Title IX Coordinator will obtain the Complainant's withdrawal in writing if the Complaint is dismissed based on the Complainant's voluntary withdrawal. It is the responsibility of each Party to update the Title IX Coordinator or Deputy Title IX Coordinator (s) of any email address or other changes to the means of contact.

5. Investigation

A. General Rules of Investigations

The Title IX Coordinator or Deputy Title IX Coordinator (s) and/or an Investigator designated by the Title IX Coordinator will perform an investigation of the conduct alleged within 90 calendar days, unless there are extenuating circumstances, following issuance of the Notice of Allegations.

The University and not the Parties, has the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing a violation of this Policy has occurred. Either Party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and does not indicate responsibility.

The University will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e., evidence that tends to prove and disprove the allegations). See Review of Evidence section below.

Medical records of a Party (or parent, if applicable) will not be considered as part of the investigation unless the Party to whom the medical records belong provides the records to the Investigator. That Party must provide voluntary, written consent for such records to be used as part of the University's grievance procedures. Any relevant medical records shared with the Investigator will then be attached to the Investigative Report and shared with the other Party and Decision Maker(s).

B. Investigative Report and Review of Evidence

The Investigator will create a final Investigative Report that fairly summarizes relevant and not otherwise impermissible evidence.

The Investigative Report is not intended to catalog all evidence obtained by the Investigator.
Only relevant evidence (including both inculpatory and exculpatory relevant evidence – i.e., tending to prove and disprove the allegations, respectively) will be referenced in the Investigative Report.

Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator not to be relevant to the allegations of Sex Discrimination will not be included in the Investigative Report. The Investigator may redact irrelevant information from the Investigative Report when that information is contained in otherwise relevant documents or evidence.

The Investigative Report will be shared with the Parties and their Advisors at least 10 days prior to any hearing for their review. The Parties will be able to provide any response to the Investigative Report at the hearing. The University is not under an obligation to use any specific process or technology to provide the evidence or report and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

Upon the request of either Party, the University will make available to each Party and each Party's Advisor any additional evidence not appended to the Investigative Report, if any, for review through an electronic format.

The Parties and their Advisors may not disseminate, photograph, copy or otherwise use the Investigative Report or any of the evidence subject to inspection and review for any purpose unrelated to the Sex Discrimination Resolution Process. Any violation of this confidentiality requirement may result in separate disciplinary action under the Student Code of Conduct - https://www.millersville.edu/studentconduct/files/studentcodeofconduct.pdf or other University Policy, as appropriate.

Any evidence subject to review will be available at any hearing held, including for purposes of questioning of Parties and witnesses.

The University reserves the right to reopen an investigation, should new information or evidence become available. If this occurs, the University will send notice to both Parties simultaneously of the decision to reopen an investigation. The Parties and their Advisors will have the opportunity to review any new Investigative Report at least 10 days prior to any hearing for their review.

C. Ongoing Notice

If, in the course of an investigation, the University decides to investigate allegations about either Party that are not included in the Notice of Allegations and are otherwise covered Sex Discrimination Violations falling within this Policy or other violations of the University's Student Code of Conduct - https://www.millersville.edu/studentconduct/files/studentcodeofconduct.pdf, the University will notify the Parties of the additional allegations by their University email accounts or other reasonable means. It is the responsibility of the Party to update the Title IX Coordinator or Deputy Title IX Coordinator (s) of any email address or other changes to the means of contact.

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

6. General Rules of Hearings

A. Notice of Hearing

No less than 10 days prior to the hearing, the Title IX Coordinator, Hearing Chair or other designee will send written notice of the hearing to the Parties. The Parties will be notified by their University email accounts or by other reasonable means. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Hearing will contain:

1. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential Disciplinary Sanctions actions that could result.
2. The time, date, and location of the hearing.

3. Information about the option for the hearing to occur with the Parties located in separate rooms using technology that enables the Decision Maker(s) and Parties to see and hear a Party or Witness answering questions. Parties should inform the Hearing Chair of any desire to have the hearing occur in separate rooms at least 3 days prior to the hearing to ensure appropriate technology is in place.
4. Information on how the hearing will be audio recorded and on access to the recording for the Parties after the hearing.
5. A copy of the rules of decorum for all hearing participants
6. A list of the Decision Makers, Hearing Facilitator, Hearing Chair who will attend the hearing, along with an invitation to object to any actual or perceived conflicts of interest or bias of the Decision Maker(s) prior to the hearing. The President of the University shall serve as the Decision Maker for all cases involving a Respondent who is a faculty member. In all cases involving a Respondent who is an Employee other than a faculty member, the President may designate a Decision Maker.
7. A statement that if any Party or Witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the admissibility of and weight to be given to any testimony or statements provided by that Party or Witness prior to the hearing will be determined by the Decision Maker(s), consistent with due process requirements.
8. Notification that the Parties may have the assistance of an Advisor of their choice at the hearing. The Party should notify the Hearing Chair in advance of the hearing if they do not have an Advisor, and the University will provide the name of an available advisor.
9. Information regarding who to contact to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing.
10. A statement that for compelling reasons, the Hearing Chair may reschedule the hearing.

B. Hearing

The University will not issue a Disciplinary Sanction arising from an allegation of a violation of this Policy without holding a hearing, unless otherwise resolved through an informal resolution process or an alternate process permitted under this Policy. If the University determines a hearing is necessary, the Parties cannot waive the right to a hearing.

The University may still proceed with the hearing in the absence of a Party and may reach a determination of responsibility in their absence. The University will not threaten, coerce, intimidate, or discriminate against the Party in an attempt to secure the Party's participation. Any testimony or statements provided by a Party or Witness who does not appear at the hearing may or may not be considered by the Decision Maker(s) consistent with due process requirements. Hearsay evidence may not be used to establish a fact necessary to establish responsibility consistent with the

requirements under Chapter 505 of Title 22 of the Pennsylvania Code pertaining to student disciplinary due process requirements.

The Decision Maker(s) cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the hearing or refusal to answer questions.

The hearing may be conducted with all Parties physically present in the same geographic location. At the University's discretion, or upon request of either Party, the University will allow any or all Parties, Witnesses, and other participants to appear at the hearing virtually through video conferencing technology. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors.

All proceedings will be recorded through audio recording by the University. No other recording of hearings will be permitted. That recording or a transcript, if one is available, will be made available to the Parties for inspection and review upon request.

All hearings for student Respondents will comply with requirements under Chapter 505 of Title 22 of the Pennsylvania Code pertaining to student disciplinary due process requirements. All hearings for employee Respondents will comply with applicable collective bargaining requirements and University and Board of Governors Policy and Procedure/Standard requirements.

C. Continuances or Granting Extensions

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

D. Participants in the Hearing

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

1. The Decision Maker(s)
2. The Hearing Officer
3. Conduct administrator or designee
4. IT Personnel
5. The Parties
6. Advisor of choice or Advisor provided by the University for each Party
7. Witnesses
8. Any individuals necessary to provide interpretation or other support services associated with reasonable accommodations to facilitate participation in the

hearing.

The Decision Maker(s) and Hearing Officer will not have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the Parties to the particular case. The Parties will have an opportunity to raise any objections regarding a Decision Maker's actual or perceived conflicts of interest or bias at the beginning of the hearing.

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

E. Hearing Procedures

For all hearings conducted under this Policy, the procedure will be as follows:

1. The Hearing Officer will open and establish rules and expectations for the hearing.
2. The Parties will each be given the opportunity to provide opening statements.
3. The Investigator will present a summary of the final Investigative Report, including items that are and are not contested. The Investigator will be subject to questioning by the Decision Maker(s) and the Parties (through the Decision Maker(s)). The Investigator should not be asked their opinion on credibility or recommended findings or determinations. If such information is introduced, the Hearing Officer will direct that it be disregarded.
4. Hearing Officer and Decision Maker(s) will ask questions of the Parties and Witnesses.
5. Parties will be given the opportunity to ask questions through the Decision Maker(s) after Decision Maker(s) conduct(s) its initial round of questioning See Questioning of Parties and Witnesses section below.

F. Relevant Evidence and Questions

"Relevant" means related to the allegations of Sex Discrimination under investigation as part of the grievance procedures. Questions are "relevant" when they seek evidence that may aid in showing whether the alleged Sex Discrimination occurred, and evidence is "relevant" when it may aid a Decision Maker(s) in determining whether the alleged Sex Discrimination occurred. Both Parties must have the opportunity to ask questions and present evidence that is "relevant" but not otherwise impermissible. The following types of evidence and questions seeking that evidence are deemed impermissible at all stages of any process initiated under this Policy:

1. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless:
   a. Offered to prove that someone other than

the Respondent committed the conduct alleged by the Complainant, or

b. About specific incidents of the Complainant's prior sexual conduct with respect to the Respondent and offered to prove Consent.

2. Evidence that is protected under a privilege as recognized by federal or state law, including attorney-client privilege, or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality; or
3. Records of a Party or Witness that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or Witness, unless the recipient obtains the voluntary, written consent of the Party or Witness to use the records in the recipient's grievance procedures.

G. Questioning of Parties and Witnesses

Each Party may propose questions that the Party wants asked of the Investigator, any Party or Witness to the Decision Maker(s).

The Parties may provide questions in writing 3 days prior to the hearing. However, the Parties will have the opportunity to propose questions during the hearing.

The Decision Maker(s) will determine whether a proposed question is relevant and not otherwise impermissible, prior to the question being posed.

The Decision Maker(s) must explain any decision to exclude a question as not relevant or otherwise impermissible.

If a question is relevant and not otherwise impermissible, the Decision Maker(s) will ask the question, unless the question is unclear or unnecessarily repetitive. The Party proposing the question will be given the opportunity to clarify or revise a question that is unclear. If the Decision Maker(s) determines the question has been sufficiently revised, it must be asked. The Parties must also follow the Rules of Decorum that are set by the University.

7. Decisions

A. General Considerations for Evaluating Testimony and Evidence

While the opportunity for questioning proposed by the Parties is required in all hearings under this Policy, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision Maker(s).

Hearsay evidence may not be used to establish a fact necessary to establish responsibility consistent with the requirements under Chapter 505 of Title 22 of the Pennsylvania Code pertaining to student disciplinary due process requirements.

Decision Maker(s) shall not draw inferences regarding the credibility of a Party or

Witness based on the Party or Witness' status as a Complainant, Respondent, or Witness, nor shall it base its judgments in stereotypes about how a Party or Witness would or should act under the circumstances.

Generally, credibility judgments should rest on the plausibility of the testimony, the consistency of the testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Credibility judgments should not rest on whether the testimony of a Party or Witness is non-linear or incomplete, or if the Party or Witness is displaying stress or anxiety.

Where the conduct or statements of a Party or Witness demonstrate that the Party or Witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Decision Maker(s) may draw an adverse inference as to the credibility of that Party or Witness.

Decision Maker(s) will afford the highest weight relative to other testimony to first-hand testimony by Parties and Witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e., tending to prove and disprove the allegations) evidence will be weighed in equal fashion. The Final Rule gives the University discretion to allow character witnesses to testify if the character witness will provide relevant and not otherwise impermissible evidence that will aid the Decision Maker in determining whether or not the alleged Sex Discrimination occurred. Whether a character witness is relevant will depend on the facts and circumstances of a particular Complaint.

B. Timeline for Decision

If there are no extenuating circumstances, the determination regarding responsibility will be issued by the University within 10 days of the completion of the hearing.

C. Written Determination

The final determination will be provided simultaneously in writing to both Parties. The written determination must include:

1. A description of the alleged Sex Discrimination;

2. Information about the policies and procedures that the University used to evaluate the allegations;

3. The Decision Maker(s)' evaluation of the relevant and not otherwise impermissible evidence and determination whether Sex Discrimination occurred;

4. When the Decision Maker(s) finds that Sex Discrimination occurred, any disciplinary sanctions the University will impose on the Respondent along

with the rationale for those sanctions, whether remedies other than the imposition of disciplinary sanctions will be provided to the Complainant and any other students identified as experiencing the effects of Sex Discrimination; and

5. The University's procedures for the Complainant and Respondent to appeal.

D. Finality

The determination regarding responsibility becomes final either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested as set forth in the Appeals section below.

8. Disciplinary Sanctions Against Students

A. Possible Disciplinary Sanctions

The University may impose the following Disciplinary Sanctions upon students, singly or in combination:

Alcohol 101+
Alcohol Reflection Paper
BASICS
Beat The Clock - Time Management Activity
Behavioral Mentor
CASICS
Censure
Choices - Decision Making Activity
Conduct Contract
Counseling Services (safety, mental health issues)
Deferred Eviction of the Residence Halls
Deferred Expulsion
Deferred Suspension
Drug Reflection Paper
Educational Class
Educational Development - AOD Counseling
Educational Development - Cannabis eCHECKUP TO GO
Educational Development - Wellness coaching
Educational Reflection
Ethical Reflection
Expulsion
Financial Restitution
Fine - Alcohol Offense
Fine - Drug Offense
Fine - Failure to Appear

Fine - Failure to Complete an Educational Sanction
Fine - Failure to Evacuate
Fine - Fire Alarm Causation
Fine - Guest Violation Offense
Fine - Possession or use of a fake ID
Fine - Tampering with Fire Safety Equipment
Fine - Vandalism
Inactivation
Interim Suspension
Loss of Privileges
No Contact Directive
No Trespass Order
Off campus counseling
Parental Notification
Probation
Reprimand
Service Restitution
Suspension
Termination of University Recognition

B. Previous Disciplinary Sanctions

Previous Disciplinary Sanctions of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

C. Timing

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

9. Disciplinary Sanctions Against Employees, Officials, and Volunteers

A. Possible Disciplinary Sanctions

Disciplinary Sanctions imposed on an Employee for violating this Policy, subject to an applicable collective bargaining agreement or University/System policies, may include a penalty up to and including separation from employment.

Disciplinary Sanctions imposed on an Official or Volunteer may include a penalty up to removal or the request for removal of the Official or Volunteer from their respective position.

B. Timing

The Disciplinary Sanctions will be implemented as soon as feasible, either upon the

outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

10. Appeals by Where the Respondent is a Student

Each Party may appeal the dismissal of a Complaint or any included allegations or a determination of responsibility on the following grounds:

a. A procedural irregularity that would change the outcome.
b. New evidence that would change the outcome and that was not reasonably available when the determination whether Sex Discrimination occurred, or the dismissal was made.
c. The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.
d. The Disciplinary Sanction imposed was arbitrary or capricious or the appropriateness of the sanction.

Appeals must be filed in writing within 5 days of being notified of the decision and must indicate the grounds for the appeal. The submission of an appeal stays any Disciplinary Sanctions for the pendency of an appeal. Supportive Measures remain available during the pendency of the appeal.

If a Party appeals, the University will notify the other Party in writing of the appeal as soon as practicable and will provide the other Party a copy of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal. The other Party will be given 5 days to respond to the basis of appeal after being notified of the appeal.

Appeals will be decided by the Vice President for Student Affairs, who will be free of conflict of interest and bias, and will not serve as an Investigator, Title IX Coordinator, Advisor or Decision Maker in the same matter. The role of the Vice President for Student Affairs is not to reweigh the evidence. The Vice President for Student Affairs will confine their review to the basis of appeal alleged and may modify the sanction if an appeal on the basis of an arbitrary or capricious Disciplinary Sanction being imposed is granted. In the event a Disciplinary Sanction is modified, the other Party will be notified of the modified Disciplinary Sanction.

The outcome of the appeal will be provided in writing simultaneously to both Parties and will include the rationale for the decision.

11. Appeals Where the Respondent is an Employee

Each Party may appeal the dismissal of a Complaint or any included allegations or a determination of responsibility on the following grounds:

a. A procedural irregularity that would change the outcome.

b. New evidence that would change the outcome and that was not reasonably available when the determination whether Sex Discrimination occurred or the dismissal was made.
c. The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.

Appeals must be filed in writing within 5 days of being notified of the decision and must indicate the grounds for the appeal. The submission of an appeal stays any Disciplinary Sanctions for the pendency of an appeal. Supportive Measures remain available during the pendency of the appeal.

If a Party appeals, the University will notify the other Party in writing of the appeal as soon as practicable and will provide the other Party a copy of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals will be decided by Vice President for Student Affairs, who will be free of conflict of interest and bias, and will not serve as an Investigator, Title IX Coordinator, Advisor or Decision Maker in the same matter. In cases of appeal of a finding of responsibility filed by an Employee who is a faculty member, the Chancellor or their designee will serve as the Appeal Officer. In all other cases of an appeal of either a dismissal or finding of responsibility, filed by an Employee, the President or their designee will serve as the Appeal Officer.

The appealing party must meet its burden to demonstrate the outcome was affected by a preponderance of the evidence. The role of the Vice President for Student Affairs is not to reweigh the evidence. The Vice President for Student Affairs will confine their review to the basis of appeal alleged. The Vice President for Student Affairs will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome.

The outcome of appeal will be provided in writing simultaneously to both Parties and will include rationale for the decision. All local or step 3 grievance rights under a collective bargaining agreement will be stayed pending the disposition of the appeal.