



## ***POLICY RESOURCE GUIDE***

[Title IX Discrimination, Harassment, & Retaliation Policy \(TIX Policy\)](#)

[Policy on Non-Title IX Sexual Harassment Against Students \(SB 493 Policy\)](#)

[Discrimination, Harassment and Retaliation Prevention Policy \(DHR Policy\)](#)

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### **INTRODUCTORY NOTE:**

*Sexual harassment is defined differently under federal and state law. The applicable definitions and procedures under these laws also depend on your status in the Dominican community as a student, faculty, staff, volunteer, or third party. Non-sexual harassment based on other protected categories is also treated differently under the law and is processed under a separate policy (the University Discrimination, Harassment and Retaliation Prevention Policy).*

*Please do not let the legal complexities deter you from bringing a concern to the attention of Dominican's Title IX Coordinator. If you are the subject of a complaint of discrimination, harassment, or retaliation, please do not let the legal complexities deter you from asking questions about the applicable definitions and procedures that will apply to you. Dominican's Title IX Coordinator can explain which definitions and policies will apply based on your status in the Dominican community.*

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***Published: January 2022  
Revised/Updated: January 2025***

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## STATEMENT ON RESPONSE TO REPORTS OF SEXUAL VIOLENCE AND RESOURCES UNDER CLERY/VAWA

As required by the Clery Amendments/VAWA, the following is DUoC's statement regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking, and procedures that the institution will follow when one of these crimes is reported.

The University believes that awareness and education programs are critical to helping students make healthy choices and take responsibility for their actions, and is committed to educating students about sexual violence, abuse, and misconduct. Throughout the year, various campus organizations may host programming and events focused on raising awareness regarding sexual violence and educating their student peers. Further, the University employs an online substance and sexual abuse awareness program that prepares students to confront and prevent serious campus problems. Students at Dominican complete the Safe Colleges online education and information modules that cover the following important topics:

- Behavior and Norms (alcohol, drug-use, the college "hookup" culture)
- Sexual abuse, violence, and misconduct
- Title IX and Campus SaVE Act training with a non-judgmental approach to effectively reach students. This program is required for all new students.

New Dominican students attend a sexual assault prevention education program during Orientation that focuses on important topics such as binge drinking, healthy relationships, bystander intervention, and personal safety, and is based on best practices research from numerous fields of study. Additionally, the University partners with community agencies (i.e.; Center for Domestic Peace) to deliver ongoing education throughout the academic year through active and passive programming, educational sessions, and awareness programs.

If a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, anyone reporting this to DUoC shall receive written information about -

- The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;
- How and to whom the alleged offense should be reported;
- Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to –
  - Notify proper law enforcement authorities, including on-campus and local police;
  - Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
  - Decline to notify such authorities.
- Where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution;
- How the institution will protect the confidentiality of victims and other necessary parties, including how the institution will –

- Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, and
- Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures;
- To students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community;
- To victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement; and
- The procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking. This may include providing the procedures in the *Title IX Policy*, the *Non-Title IX Sexual Harassment Policy*, or the *Discrimination, Harassment and Retaliation Prevention Policy*.

In addition, when a student or employee reports that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options.

## TITLE IX POLICY

### I. Policy Overview

This policy sets forth Dominican University of California's ("DUoC") obligations under the 2020 Title IX Regulations; DUoC's obligations under the 2013 Clery Amendments pertaining to sexual assault, dating violence, domestic violence, and stalking.

Our Title IX Coordinator, for purposes of Title IX compliance as well as for the purposes described in section 66281.8 of the California Education Code, is:

*Dr. Erica D'Agostino (Interim TIX Coordinator)*  
[erica.dagostino@dominican.edu](mailto:erica.dagostino@dominican.edu) or [TitleIX@dominican.edu](mailto:TitleIX@dominican.edu)  
(423) 667-1838

Questions about Title IX may be referred to the Title IX Coordinator. Questions may also be directed to the assistant secretary for civil rights:

*Office for Civil Rights; San Francisco Office*  
*U.S. Department of Education*  
*50 United Nations Plaza*  
*San Francisco, CA 94102*  
*Telephone: (415) 486-5555 | Facsimile: (415) 486-5570*  
*Email: [OCR.SanFrancisco@ed.gov](mailto:OCR.SanFrancisco@ed.gov)*

The Title IX Coordinator is responsible for coordinating DUoC's compliance with Title IX. Responsibilities include complaint handling, communications and training in connection with Title IX's prohibition of discrimination based upon gender and identifying and addressing any patterns or systemic problems that arise during the review of reports.

The Coordinators are knowledgeable about, and will provide information on, options for addressing and resolving complaints about discrimination on the basis of sex (including sexual harassment and sexual misconduct). The Coordinators' roles extend to addressing other forms of discrimination; race, color, religion, national origin, sex (including [pregnancy](#), childbirth and any related medical condition), age, marital status, registered domestic partnership status, mental or physical disability status, religion (including religious dress and grooming practices), military or veteran status, genetic information or any other characteristic protected by law in admission and access to, and treatment and employment in, its educational programs and activities. Together, this team plays an integral role in carrying out the University's commitment to creating, fostering, and maintaining an educational, employment, and campus environment that is free of discrimination, harassment, sexual misconduct, and retaliation.

Any person may report conduct prohibited by this policy to the Title IX Coordinator. A complaint about the Title IX Coordinator may be made to Sherry Wangenheim, Vice President for Finance and Administration.

## **II. Statement of Non-Discrimination**

DUoC does not discriminate on the basis of sex in its educational programs and activities, including employment and admission. Complaints of discrimination based on sex will be handled under this Policy (for sexual harassment prohibited by Title IX), the *Policy on Non-Title IX Sexual Harassment Against Students* or the *Discrimination, Harassment and Retaliation Prevention Policy*.

## **III. Scope**

This policy applies to all students, faculty, and staff who experience sexual harassment as prohibited by Title IX in DUoC's education programs or activities. This includes locations, events, or circumstances over which DUoC exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by DUoC.

DUoC has other policies and procedures that may be applicable if the conduct does not meet the definition of prohibited sexual harassment under this policy or otherwise fall within the scope of this policy, including the *Policy on Non-Title IX Sexual Harassment Against Students* and the *Discrimination, Harassment and Retaliation Prevention Policy*.

## **IV. Prohibited Sexual Harassment Under Title IX**

In accordance with its obligations under the Title IX Regulations of 2020, DUoC prohibits sexual harassment, which is conduct based on sex (biological sex) that satisfies one or more of the following definitions:

### **A. Definitions of Prohibited Conduct Under Title IX**

- 1. Quid Pro Quo Conduct.** An employee conditions the provision of an aid, benefit, or service of DUoC on an individual's participation in unwelcome sexual conduct.
- 2. Unwelcome Conduct.** Unwelcome conduct that is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a DUoC education program or activity.
- 3. Sexual assault.** This category of prohibited conduct includes the following:
  - a. Sex Offenses**—Any sexual act directed against another person, without the affirmative consent of the victim including instances where the victim is

incapable of giving affirmative consent. Sexual Act is defined as conduct between persons consisting of:

- i. Contact between the penis and the vulva.
- ii. Contact between the penis and the anus.
- iii. Contact between the mouth and the penis.
- iv. Contact between the mouth and the vulva.

**b. Non-Consensual Penetration** - Actual or attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the affirmative consent of the victim. This includes penetration forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving affirmative consent because of their temporary or permanent mental or physical incapacity.

**c. Criminal Sexual Contact** - The intentional touching of the clothed or unclothed body parts without the affirmative consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the Complainant of the Respondent's clothed or unclothed body parts, without the affirmative consent of the Complainant, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the Complainant is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication.

**d. Other Lawfully Prohibited Sexual Intercourse** - This category includes conduct constituting sexual assault that does not meet the definition of Non-Consensual Penetration or Fondling:

- i. Non Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law, regardless of affirmative consent.
- ii. Non Forcible sexual intercourse with a person who is under the statutory age of consent, regardless of affirmative consent.

**4. Dating violence.** Violence committed by a person—(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship. (ii) The type of relationship. (iii) The frequency of interaction between the persons involved in the relationship

**5. Domestic violence.** A felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has

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

6. **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to— (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

## **B. Other Definitions**

1. **Affirmative consent** means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.
  - a. Lack of protest or resistance does not mean consent.
  - b. Silence does not mean consent.
  - c. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

It shall not be a valid excuse that the Respondent believed that the Complainant affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:

- a. The Complainant was asleep or unconscious.
- b. The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity.
- c. The Complainant was unable to communicate due to a mental or physical condition.

In addition, it shall not be a valid excuse to alleged lack of affirmative consent that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

- a. The Respondent's belief in affirmative consent arose from the intoxication or recklessness of the Respondent.



- b. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.
- 2. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment under this policy.
- 3. **Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that DUoC investigate the allegation of sexual harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of DUoC with which the Formal Complaint is filed.
- 4. **Grievance Process** means the fact-finding process from the time of the filing of the Formal Complaint through the final determination of an appeal (if any).
- 5. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment under this policy.
- 6. **Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to DUoC's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or DUoC's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures may also include written notification about available services both within the institution and the community and options for available assistance as required by the Clery Act. Supportive measures are not disciplinary measures.
- 7. **Days** means calendar days. Be advised that when a deadline falls on a weekend, holiday, or school closure, the deadline shall be the next business day (Mon-Fri).

### C. Reporting Prohibited Sexual Harassment

- 1. **Notice of Allegations.** DUoC has notice of Title IX Sexual Harassment or allegations of Title IX Sexual Harassment under this policy when such conduct is reported to the Title IX Coordinator or any official of DUoC who has authority to institute corrective measures on behalf of DUoC. However, all employees are

required to report sexual harassment, as defined and prohibited by this policy, to the Title IX Coordinator, consistent with the requests of the Complainant.

- 2. Response to a Report.** With or without a Formal Complaint, upon a report of sexual harassment, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint.
- 3. Information Packet.** Upon a receipt of a report of sexual assault, dating violence, domestic violence or stalking, DUoC shall provide an information packet that contains procedures to follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about—
  - a. The importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order and the identification and location of witnesses;
  - b. How and to whom the alleged offense should be reported;
  - c. Options regarding law enforcement and campus authorities, including notification of the option to:
    - i. notify proper law enforcement authorities, including on-campus and local police;
    - ii. be assisted by campus authorities in voluntarily notifying law enforcement authorities; and
    - iii. decline to notify such authorities;
  - d. Where applicable, their rights and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;
  - e. Information about appropriate and available services both at the institution and in the community including information about the availability of, and contact information for, on- and off-campus resources and services, and coordination with law enforcement, as appropriate; and
  - f. Options for, available reasonably available assistance and accommodations and how to request them; and
  - g. Information about the participation of victim advocates and other supporting people.

DUoC's information packet for victims of sexual assault, dating violence, domestic violence and stalking is located here or available from the Title IX Coordinator.

- 4. Implementation of Supportive Measures.** DUoC shall treat parties equitably by offering Supportive Measures to the Complainant and the Respondent, and by following a grievance process that complies with this policy before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures as against the Respondent. DUoC will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of DUoC to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. The Title IX Coordinator should record and retain records regarding requests and provision of Supportive Measure in accordance with the requirements set out at VII - Record Keeping below.
- 5. Emergency Removal.** Nothing in this policy precludes DUoC from removing a Respondent from DUoC's education program or activity on an emergency basis, provided that DUoC undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
- 6. Administrative Leave.** DUoC reserves the right to place a non-student employee Respondent on administrative leave during the pendency of a grievance process.
- 7. Amnesty for Student Code of Conduct Violations.** An individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of DUoC's Student Code of Conduct at or near the time of the incident, unless DUoC determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

#### **D. Procedures for Resolving Complaints of Prohibited Sexual Harassment**

- 1. Informal Resolution.** Consistent with the requirements of this section, at any time prior to reaching a determination regarding responsibility DUoC may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that DUoC:
  - a. Provides to the parties a written notice disclosing:
    - i. The allegations;
    - ii. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a

Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint, and

- iii. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- b. Obtains the parties' voluntary, written consent to the informal resolution process; and
- c. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
- d. Completes the informal resolution process within 60 days of receiving the Formal Complaint, unless unusual or complex circumstances exist.

DUoC does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of Title IX Sexual Harassment under this policy. DUoC shall not require the parties to participate in an informal resolution process and will not offer an informal resolution process unless a Formal Complaint is filed.

## **2. Formal Complaint and the Grievance Process**

- a. **Filing a Formal Complaint.** A [Formal Complaint](#) may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator above. A “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by DUoC) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the [Formal Complaint](#). Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party. A Formal Complaint shall trigger an investigation except as specified below. The Formal Complaint should include the date(s) of the alleged incident(s), the name of the Respondent, and should describe the circumstances of the incident(s), where known.
- b. **Dismissal of a Formal Complaint.** DUoC shall investigate the allegations in a Formal Complaint, except as follows:
  - i. **Mandatory Dismissal.** DUoC shall dismiss the Formal Complaint if the conduct alleged in the Formal Complaint

- a) would not constitute Title IX Sexual Harassment as defined by this policy, even if proved,
  - b) did not occur in DUoC's education program or activity, or did not occur against a person in the United States. This dismissal does not preclude action under another policy or procedure of DUoC.
- ii. **Discretionary Dismissal.** DUoC may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:
  - a) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
  - b) The Respondent is no longer enrolled in or employed by DUoC; or
  - c) Specific circumstances prevent DUoC from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.
  - d) Occurred prior to August 14, 2020, in which case, DUoC's DHSMR shall be used.
  - e) DUoC may dismiss at Formal Complaint at any time in the process if it becomes known that one of the foregoing reasons for dismissal applies.

Upon a dismissal required or permitted under this section, DUoC will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties. DUoC may also refer the matter to the appropriate department for resolution under the Student Code of Conduct and/or the University Discrimination, Harassment and Retaliation Policy.

- c. **Consolidation of Formal Complaints.** DUoC may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one Complainant or more than one Respondent, references in this section to the singular "party," "Complainant," or "Respondent" include the plural, as applicable. Where multiple policies may be implicated by the same set of facts or circumstances, DUoC may bifurcate the proceedings in accordance with the requirements of the individual policies.

### 3. Notice of Charges

- a. **Initial Notice of Charges.** Upon receipt of a Formal Complaint, prior to commencing the investigation, DUoC shall provide the following written notice to the parties who are known. This notice shall include:
  - i. This policy (as a link or attachment).

- ii. Notice of the allegations potentially constituting Title IX Sexual Harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under this policy, and the date and location of the alleged incident, if known.
- iii. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- iv. Notification to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- v. Notification to the parties that they may inspect and review evidence, as set forth in this policy.
- vi. Any provision in DUoC's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- vii. DUoC will use the preponderance of the evidence standard – this means whether it is more likely than not that the responding party violated policy – determine if a violation of this policy occurred.

**b. Amended Notice of Charges.** If, in the course of an investigation, DUoC decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice of charge, DUoC must provide notice of the additional allegations to the parties whose identities are known.

#### **4. Principles for the Grievance Process**

Under this grievance process, DUoC shall:

- a. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on DUoC and not on the parties, provided that DUoC cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless DUoC obtains that party's voluntary, written consent to do so for a grievance process under this section (if a party is not an "eligible student," as defined in 34 CFR 99.3, then DUoC must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3).
- b. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

- c. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- d. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, DUoC may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. For the purposes of this policy, the role of the advisor is limited to the following: the advisor may attend any interview or meeting connected with the grievance process, but may not actively participate in interviews nor provide testimony or argument on behalf of the party. The advisor may attend the live hearing and may conduct cross-examination of the other party and any witness at the hearing; otherwise, the advisor may not actively participate in the hearing.
- e. Allow each party to be accompanied by a support person if they do not wish to have an advisor. Each party may be accompanied by only one other person.
- f. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
- g. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence— and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
- h. Require that any individual designated as a Title IX Coordinator, investigator, decisionmaker, or any person to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. DUoC may use internal personnel or external parties in the informal resolution process or the grievance process, provided that they meet this requirement.
- i. Include a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- j. Use the following standard of evidence to determine responsibility for allegations in a Formal Complaint of sexual harassment: the preponderance of the evidence standard. The standard of evidence shall be the same for Formal Complaints against students as for Formal Complaints against faculty and staff.



- k. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person(s) holding such privilege has waived the privilege.

## **5. Extensions of the Title IX Sexual Harassment Grievance Process**

The Title IX Coordinator may grant or deny requests from either party to temporarily delay the grievance process or may issue the limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action.

Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

## **6. Investigation of Formal Complaints of Title IX Sexual Harassment**

If not serving as the Investigator, the Title IX Coordinator will appoint an Investigator, who may be an employee or official of DUoC or may be an external investigator with appropriate experience or expertise. The parties will be provided with notice of the identity of the appointed Investigator, and will be informed that any objections to the service of the appointed Investigator on grounds of conflict of interest or a lack of impartiality should be submitted in writing to the Title IX Coordinator within three days of notice of the appointment. The Title IX Coordinator will decide promptly whether the appointed Investigator will or will not continue to conduct the investigation. Any materials collected or notes prepared by the Investigator during the objection period will be turned over to any replacement Investigator. The replacement Investigator will decide whether to use such materials or not.

When investigating a Formal Complaint DUoC shall, within 60 days of receiving the Formal Complaint, unless unusual or complex circumstances exist:

- a. Engage in fact-gathering of all relevant facts. Credibility resolutions and fact-finding shall be conducted in the live hearing phase of the grievance process – not by the Investigator.
- b. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which DUoC does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- c. Prior to completion of the investigative report, send to each party and the party's advisor, if any, the evidence subject to inspection and review in an



electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

- d. Make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- e. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing or other time of determination regarding responsibility, the Title IX Coordinator shall send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. Upon finalization of the investigative report, the Title IX Coordinator shall provide it to the decision-maker(s).
- f. Conduct an impartial and trauma-informed investigation.

## **7. Live Hearings Under the Grievance Process**

### **a. Requirement of a Live Hearing for Fact-Finding and Determining Responsibility.**

- i. Following the investigation, within 30 days of sending the final investigative report to the parties, unless unusual or complex circumstances exist, DUoC shall conduct a live hearing in front of the decision-maker(s), which may be an individual or a Hearing Panel, for the purposes of determining responsibility for allegations of sexual harassment in the Formal Complaint. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator or the investigator(s). A decision-maker may include internal employees or external third parties contracted by DUoC. If using a Hearing Panel, the Title IX Coordinator will choose three Review Panel members from its pool to attend the hearing and make determinations. All potential Hearing Panel members will receive annual training as specified by this policy. The parties each may challenge the participation of any member of the Hearing Panel for conflict of interest or other good cause. The Title IX Coordinator will make the final decision whether to select an alternate upon a challenge from a party. If using a Hearing Panel, the Title IX Coordinator will appoint a member of the Hearing Panel to be the Hearing Panel Chair.
- ii. The live hearing will be closed. The only individuals permitted to participate in the hearing are as follows: the Complainant and Respondent, the decision-maker(s), the advisor for each party, any witnesses (only while being questioned), and any individual providing authorized accommodations or assistive services.

- iii. If a party does not have an advisor present at the live hearing, DUoC shall provide without fee or charge to that party, an advisor of DUoC's choice, who may be, but is not required to be, an attorney, to conduct cross examination on behalf of that party. DUoC is obligated to ensure each party has an advisor, either of the party's or DUoC's choice regardless of whether or not the party is present at the hearing. To ensure timely proceedings, a party shall alert the Title IX Coordinator as soon as practicable if the party will need an advisor. If a party's selected advisor is unavailable for a hearing date, the live hearing date may be postponed for good cause.
- iv. Live hearings may be conducted with all parties physically present in the same geographic location or, at DUoC's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- v. At the request of either party, DUoC shall provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
- vi. DUoC shall create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. Any other recording is prohibited, and violations may result in discipline.
- vii. The parties shall separately participate in a pre-hearing meeting with the Title IX Coordinator, or their designee, to go over the process and administration of the live hearing. Prior to or during this meeting, the Title IX Coordinator, or their designee, will set the deadlines for submitting and exchanging names of witnesses, evidence, and pre-hearing questions. (The parties will also be permitted to submit questions during the live hearing.) Participation in this pre-hearing meeting is required in order to facilitate the efficient and fair administration of the live hearing process.

**b. Questioning at the Live Hearing**

- i. At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- ii. Only relevant cross examination and other questions may be asked of a party or witness.
- iii. Decision-maker(s) also have the right to question a party or witness.
- iv. Cross examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding DUoC's ability to otherwise restrict the extent to which advisors may participate in the proceedings.

- v. Before the Complainant, Respondent, or witness, answers a cross-examination or other question, the Chair must first determine whether the question is relevant. The Chair must explain to the party proposing the questions any decision to exclude a question as not relevant.
- vi. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

**c. Use of Witness Statements**

- i. If a party or witness does not submit to cross examination at the live hearing, the decision-maker(s) may consider prior statements of that party or witness in reaching a determination regarding responsibility except where the witness's credibility is at issue and significant sanctions are possible, such that the witness's statements must be tested by direct or indirect cross examination at the live hearing.
- ii. The decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer questions.

**d. Written Determination of the Decision-Maker**

- i. The decision-maker(s) shall issue a written determination regarding responsibility. If the decision-maker is a Hearing Panel, a majority of the Hearing Panel members must find that a policy violation occurred for a finding of responsibility and a majority of the Panel members must assent to the sanction(s) imposed, if any. To reach this determination, the decision-maker must apply the standard of evidence required by this policy. The written determination must include:
  - a) Identification of the allegations potentially constituting sexual harassment as defined by this policy;
  - b) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - c) Findings of fact supporting the determination;
  - d) Conclusions regarding the application of DUoC's policy to the facts;

- e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to DUoC's education program or activity will be provided to the complainant; and
  - f) The procedures and permissible bases for the Complainant and Respondent to appeal, as set forth in this policy.
- ii. DUoC shall provide the written determination to the parties simultaneously.
  - iii. The determination regarding responsibility becomes final either on the date that DUoC provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

#### **IV. Appeals**

Appeals must be sent to the Title IX Coordinator in writing.

##### **A. Grounds**

Within 10 days of receiving the written determination, either party may appeal from a determination regarding responsibility, and from DUoC's dismissal of a Formal Complaint or any allegations therein, on the following grounds:

- 1. Ground 1:** Procedural irregularity that affected the outcome of the matter;
- 2. Ground 2:** New evidence that was not reasonably available, as demonstrated by making a good cause showing of the lack of availability of such evidence, at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- 3. Ground 3:** 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 affected the outcome of the matter.

##### **B. Response to Appeals**

As to all appeals, the Title IX Coordinator (or designee) shall:

- 1.** Notify the other party in writing immediately when an appeal is filed and, if the basis is new evidence, provide an explanation of the circumstances leading to the decision to allow the new evidence to be considered on appeal, and implement appeal procedures equally for both parties;
- 2.** Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;

3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in this policy;
4. Give the non-appealing party an opportunity to submit a written statement in response to the appeal within 10 days of receiving the appeal, which shall be transmitted within 2 business days to the Appeal decision-maker(s).

### C. Decision on Appeal

Within 20 days of receiving the appeal and the response, the Appeal decision-maker(s) shall issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both parties. The Appeal decision-maker(s) may deny the appeal or, if the appeal ground(s) has or have been met, may return the case to the initial decision-maker(s) for reconsideration, or convene a new hearing. If a case is returned to the initial decision-maker(s), the Appeal decision-maker(s) shall identify which aspects merit further review.

## IV. Remedies and Sanctions

Remedies must be designed to restore or preserve equal access to DUoC's education program or activity.

1. DUoC may impose the following sanctions against an individual found responsible for a violation of this policy. The following are the usual sanctions that may be imposed upon students or student organizations singly or in combination:
  - a. **Official Warning** – A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
  - b. **Educational Sanctions** – Work assignments, essays, service to the University, reflections, mandated workshops, and other related assignments.
  - c. **No Contact Directive** – A notification indicating no contact between two or more parties at the institution.
  - d. **Fines** – Previously established and published fines may be imposed.
  - e. **Restitution** – Compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
  - f. **Loss of Privileges** – Denial of specific privileges for a designated period of time.
  - g. **Organizational Sanctions** – Deactivation, loss of recognition, loss of some or all privileges (including University registration), for a specified period of time.
  - h. **Disciplinary Probation** – A written reprimand for violation of University policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from

co-curricular activities, no-contact orders and/or other measures deemed appropriate.

- i. **Residence Hall Exclusion** – Permanent separation of the student from the University Residence Halls.
  - j. **Suspension** – Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at University.
  - k. **Expulsion** - Permanent termination of student status, revocation of rights to be on campus for any reason or attend University-sponsored events.
  - l. **Withholding Diploma** – The University may withhold a student’s diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
  - m. **Revocation of Degree** – The University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
2. Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation may include, but are not limited to, the following:
- a. Warning – Verbal or Written
  - b. Performance Improvement/Management Process
  - c. Required Counseling
  - d. Required Training or Education
  - e. Probation
  - f. Loss of Oversight or Supervisory Responsibility
  - g. Demotion
  - h. Suspension with pay
  - i. Suspension without pay
  - j. Termination

A student found responsible for a violation of this policy will be subject to sanction(s) regardless of whether legal proceedings involving the same incident are underway or anticipated. An employee found responsible for a violation of this policy will be subject to sanction(s) up to and including termination of employment.

Possible sanctions and remedies that DUoC may implement following any determination of responsibility under this policy are listed above in the description of the Notice of Charges, as such possible sanctions have been previously described in this Policy.

The Title IX Coordinator is responsible for effective implementation of any remedies.

## **V. Retaliation Prohibited**

No member of the DuoC community may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right established by this policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this section.

Complaints alleging retaliation may be filed and will be processed according to the procedures set forth in the *Discrimination, Harassment and Retaliation Prevention Policy*.

Charging an individual with a policy violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation prohibited under of this section, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

## **VI. Confidentiality**

Except as otherwise required by the procedures in this policy, DUoC shall keep confidential the identity of any individual who has made a report or complaint of behavior prohibited by this policy, including any individual who has made a report or filed a Formal Complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. This means that DUoC will protect the party's privacy consistent with this Policy but may disclose information to those who have a legitimate need to know and in order to process complaints under this policy.

Confidentiality is not absolute, however. Where criminal conduct has occurred, or where the health and/or safety of others in the community may be in danger and an investigation or hearing is necessary, it may be necessary for DUoC to take appropriate steps to protect the safety of its students and employees, including the person who has reported the misconduct.

Counselors and medical providers working at or on behalf of DUoC are Confidential Resources. In most cases, Confidential Resources at DUoC will not share the substance of any such communications or that such communications occurred without consent. Individuals who wish to talk about issues related to sexual harassment or sexual



misconduct confidentially, with the understanding that DUoC will not take any action based on such confidential communications, are encouraged to contact one of these Confidential Resources.

Confidential Resources may, however, have an obligation to disclose otherwise-privileged information where they perceive an immediate and/or serious threat to a person and/or property. Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if he or she provides medical services for a physical condition to a person who he or she knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury where the injury is the result of assaultive or abusive conduct (including Sexual Assault, and Dating and Domestic Violence). This requirement does not apply to sexual assault and domestic violence counselors and advocates. These are limited exceptions to the privileged nature of communications with Confidential Resources. Individuals should discuss any questions they have about confidentiality with a Confidential Resources BEFORE they disclose any information. Reports or records maintained by DUoC (including Counseling Service records), and other confidential, non-privileged records may, however, be subject to a subpoena if civil or criminal charges are filed in court.

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Confidential Resources will not report Clery crimes they learn about through confidential communications for purposes of DUoC's compilation of campus crime statistics.<sup>1</sup> In addition, when appropriate and legally permissible, DUoC shall conduct record-keeping on reports of dating violence, domestic violence, stalking and sexual assault, such as that collected for legally required disclosures, that excludes personally-identifiable information of any complainants.

## **VII. Required Trainings**

The Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process (whether internal or external) shall receive training on the definition of sexual harassment under this policy, the scope of DUoC's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. These individuals shall receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

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<sup>1</sup> Crimes reported to a pastoral or professional counselor are not required to be reported by an institution under the Clery Act; however, institutions are strongly encouraged to establish voluntary, confidential reporting processes so that incidents of crime that are reported exclusively to professional and pastoral counselors will be included in the annual crime statistics. 34 C.F.R. §668.46(b)(2)(iii).



Decision-makers shall receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators shall receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence as well as training on conducting trauma-informed investigations.

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints of sexual harassment.

## **VIII. Recordkeeping**

DUoC shall maintain for a period of seven years records of:

- A.** Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under this policy, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to DUoC's education programs or activities;
- B.** Any appeal and the result therefrom;
- C.** Any informal resolution and the result therefrom; and
- D.** All materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an informal resolution process. DUoC shall make these training materials publicly available on its website.
- E.** Records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of sexual harassment. In each instance, DUoC will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to DUoC's education program or activity. If DUoC does not provide a complainant with Supportive Measures, then DUoC must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit DUoC in the future from providing additional explanations or detailing additional measures taken.

## **IX. Effective Date; Revisions**

This policy is effective as of January 1, 2022.

***(END OF TITLE-IX POLICY)***

## POLICY ON NON-TITLE IX SEXUAL HARASSMENT AGAINST STUDENTS (SB 493 Policy)

### I. Policy Overview

This policy sets forth the obligations of Dominican University of California (“DUoC”) under the California Education Code as it relates to sexual harassment against students that is not covered under the jurisdiction of the DUoC’s Title IX Policy.

### II. Notice of Non-Discrimination

Pursuant to California Education Code Section 66281.5, it is the policy of DUoC that all persons, regardless of sex, should enjoy freedom from discrimination of any kind at DUoC.

Our Title IX Coordinator for purposes of Title IX compliance as well as for the purposes described in section 66281.8 of the California Education Code is:

*Dr. Erica D’Agostino*  
[erica.dagostino@dominican.edu](mailto:erica.dagostino@dominican.edu) or [TitleIX@dominican.edu](mailto:TitleIX@dominican.edu)  
(423) 667-1838

### III. Scope

This policy applies to all actively enrolled students who experience prohibited sexual harassment involving any individual subject to DUoC’s policies, including students, employees and third parties where applicable, in connection with any educational activity or other program of the DUoC, as well as incidents that occurred outside of those educational activities or programs, whether they occurred on or off-campus, if, based on the allegations, there is any reason to believe that the incident(s) could contribute to a hostile educational environment or otherwise interfere with a student’s access to education.

### IV. Prohibited Sexual Harassment

- A.** This policy incorporates by reference all definitions of Prohibited Sexual Harassment contained in DUoC’s Title IX Policy – which can be found [here](#). This policy is used for conduct that is prohibited by the Title IX Policy but outside the scope of that policy.

**B.** In addition to the Title IX Policy definitions, the following are prohibited by this policy:

- 1. Sexual Harassment**, defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:
  - a.** Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
  - b.** Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
  - c.** The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
  - d.** Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.
- 2. Sexual Violence**, defined as physical sexual acts perpetrated against a person without the person's affirmative consent. Physical sexual acts include both of the following:
  - a.** Rape, defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim
  - b.** Sexual battery, defined as the intentional touching of another person's intimate parts without consent, intentionally causing a person to touch the intimate parts of another without consent, or using a person's own intimate part to intentionally touch another person's body without consent.
- 3. Sexual Exploitation**, defined as a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, any of the following acts:
  - a.** the prostituting of another person;

- b. the trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion;
- c. the recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure;
- d. the viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

## **V. Definitions**

- A. This policy incorporates by reference all other definitions contained in DUoC's [Title IX Policy](#).
- B. In addition to these definitions, the following definitions are included under the purview of this policy:
  - 1. Responsible Employee - means an employee who has the authority to take action to redress sexual harassment or provide supportive measures to students, or who has the duty to report sexual harassment to an appropriate school official who has that authority. Responsible Employee includes but is not limited to any of the following positions or job duties regardless of the specific job title:
    - Title IX Coordinator;
    - Residential advisors while performing the duties of employment by the DUoC;
    - Housing directors, coordinators, or dean;
    - Student life director, coordinator or dean;
    - Athletic director, coordinator or dean;
    - Coaches of any student athletic or academic team or activity;
    - Faculty and associate faculty, teachers, instructors, or lecturers;
    - Graduate student instructors, while performing the duties of employment by the DUoC;
    - Laboratory directors, coordinators or principal investigators;
    - Internship or externship directors or coordinators;

- Study abroad program directors or coordinators.<sup>2</sup>
2. Excluded from the above are any individual acting in a professional capacity for which confidentiality is mandated by law. Such an individual shall inform each student who provides the individual with information regarding sexual harassment of the student's ability to report to a responsible employee and direct the student to those specific reporting resources.

## **VI. Reporting Prohibited Sexual Harassment**

**A. Notice of Allegations** - DUoC has notice of sexual harassment or allegations of sexual harassment under this policy when such conduct is reported to a Responsible Employee or where such Responsible Employee, in the exercise of reasonable care, knew or should have known about the sexual harassment prohibited by this policy. However, all employees of DUoC are required to report sexual harassment, as defined and prohibited by this policy, to the Title IX Coordinator, consistent with the requests of the complainant as described below in Section XIV, Confidentiality.

Regardless of whether or not a complaint has been filed under this policy, if DUoC knows, or should reasonably know, about possible sexual harassment involving individuals subject to DUoC's policy at the time of the alleged conduct, DUoC shall promptly investigate to determine whether the alleged conduct more likely than not occurred, or otherwise respond unless DUoC determines that an investigation is not required or that it can honor a request for confidentiality.

### **B. Requests for Confidentiality Made by Complainants**

1. A complainant may request confidentiality, even when such a request, may preclude a meaningful investigation or potential discipline of the potential respondent or that no investigation or disciplinary action be pursued to address the alleged sexual harassment.
2. DUoC will consider such a request seriously and will generally grant such requests. However, given DUoC's statutory responsibility to provide a safe and nondiscriminatory environment for all students, DUoC may disclose a complainant's identity and/or proceed with an investigation over the objection of complainant where DUoC considers whether any of the following apply:

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<sup>2</sup> California institutions may adjust the titles in this list or add to the list as needed.

- a. there are multiple or prior reports of sexual harassment or misconduct against the respondent;
  - b. the respondent allegedly used a weapon, physical restraints, and/or engaged in battery;
  - c. the respondent is a faculty or staff member with oversight of students;
  - d. there is a power imbalance between complainant and respondent;
  - e. complainant believes that the complainant will be less safe if complainant's name is disclosed and/or an investigation is conducted;
  - f. DUoC is able to conduct a thorough investigation and obtain relevant evidence in the absence of complainant's cooperation.
- 3. Where DUoC determines that it must disclose complainant's identity to respondent and/or proceed with an investigation:
  - a. DUoC shall notify complainant prior to making the disclosure and/or initiating the investigation.
  - b. DUoC shall take immediate steps to provide for the safety of complainant where appropriate.
  - c. Upon the request of complainant, DUoC shall notify respondent that complainant requested the DUoC not investigate or seek discipline.
- 4. Where DUoC determines that it can honor complainant's request for confidentiality, DUoC shall take reasonable steps to respond to the complaint, consistent with complainant's request, to limit the effects of the alleged sexual harassment and prevent recurrence without formal action against the alleged respondent. These steps may include, but are not limited to:
  - a. Monitoring, supervision and/or security at the location(s) or activities where the alleged harassment occurred;
  - b. Providing additional training and/or educational materials to students and employees;
  - c. Conducting climate surveys regarding sexual violence and harassment
- 5. Where DUoC determines that it can honor complainant's request for confidentiality, DUoC shall take immediate steps to provide for the safety of

complainant while keeping complainant's identity confidential as appropriate. Complainant shall be notified that the steps may be limited by the request for confidentiality. These steps may include:

- a. Changing living arrangements;
- b. Changing course schedules, assignments or tests.

**C. Response to Report** - Upon a report of sexual harassment, where there is an identifiable complainant, the Title IX Coordinator (or designee) will promptly contact the complainant to:

1. Confirm that the institution has received a report that the student may have been a victim of sexual harassment;
2. Discuss the availability of Supportive Measures;
3. Consider the complainant's wishes with respect to Supportive Measures;
4. Inform the complainant of the availability of Supportive Measures with or without the filing of a complaint;
5. Explain to the complainant the process for filing a complaint and explain the institution's investigation process including the manner in which the institution responds to reports of sexual harassment and a description of potential disciplinary consequences;
6. Request that the student meet with the Title IX Coordinator (or designee) to discuss options for responding to the report.
7. The Title IX Coordinator will inform the complainant that an investigation may be initiated even where the complainant chooses not to file a complaint, as required by California law, unless specifically requested by the complainant not to initiate an investigation. DUoC, consistent with California law, shall make the decision whether an investigation should occur.

**D. Outreach/Information Packet** – Additionally, upon a receipt of a report of sexual assault, dating violence, domestic violence or stalking, DUoC shall provide to the identifiable complainant, an information packet that contains procedures to follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about:

- 1.** The importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order and the identification and location of witnesses;
- 2.** How and to whom the alleged offense should be reported;
- 3.** Options regarding law enforcement and campus authorities, including notification of the option to:
  - a.** Notify proper law enforcement authorities, including on-campus and local police;
  - b.** Be assisted by campus authorities in voluntarily notifying law enforcement authorities; and
  - c.** Decline to notify such authorities.
- 4.** Where applicable, their rights and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;
- 5.** Information about applicable and available services both at the institution and in the community including information about the availability of, and contact information for, on- and off-campus resources and services, and coordination with law enforcement, as appropriate;
- 6.** Options for available reasonably available assistance and accommodations and how to request them;
- 7.** Information about the participation of victim advocates and other supporting individuals;
- 8.** Confirmation or acknowledgment that DUoC has received a report that the student may have been a victim of sexual harassment;
- 9.** A statement that retaliation for filing a complaint or participating in a complaint process, or both, is prohibited; and
- 10.** A statement that this policy is established pursuant to California law and is consistent with Title IX for the investigation of student sexual harassment complaints.

DUoC's information packet for victims of sexual harassment as described in this policy can be found at the link below, or from the Title IX Coordinator:



<https://www.dominican.edu/about/safety-and-emergency-information/sexual-misconduct-title-ix-and-discrimination>.

- E. Implementation of Supportive Measures** - DUoC shall treat parties equitably by offering Supportive Measures, as defined by the Title IX Policy, to the parties, and by following the grievance process in this policy before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures as against the respondent. DUoC will maintain as confidential any Supportive Measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of DUoC to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. The Title IX Coordinator should record and retain records regarding requests and provision of Supportive Measures in accordance with the requirements set out at Section XVI (Record Keeping) below.
- F. Requests for Accommodations** – DUoC shall consider and respond to requests for accommodation relating to prior instances of sexual harassment that could contribute to a hostile educational environment or otherwise interfere with a student’s access to education where both individuals are, at the time of the request, subject to DUoC’s policies.
- G. No-Contact Directives**
- 1. Unilateral No-Contact Directives**
    - a. When requested by a complainant or otherwise determined to be appropriate, DUoC shall issue an interim, unilateral no-contact directive prohibiting the respondent from contacting the complaint during the pendency of the grievance process.
    - b. Upon issuance of an interim no-contact directive, DUoC shall provide the parties with a written justification for the directive and an explanation of the terms of the directive, including the circumstances, if any, under which a violation could be subject to disciplinary action.
    - c. Where a unilateral no-contact directive is issued after a decision of responsibility, it shall only apply against the party found responsible.
  - 2. Mutual No-Contact Directives**

- a. DUoC shall not automatically issue a mutual no-contact directive but shall consider the specific circumstances of each case to determine whether such a directive is appropriate to:
    - i. Protect the non-complaining party's safety or well-being; or
    - ii. To respond to interference in the grievance process.
  - b. Upon issuance of a mutual no-contact directive, DUoC shall provide the parties with a written justification for the directive and an explanation of the terms of the directive, including the circumstances, if any, under which a violation could be subject to disciplinary action.
- H. **Emergency Removal** - Nothing in this policy precludes DUoC from removing a respondent from DUoC's education program or activity on an emergency basis, provided that DUoC undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- I. **Administrative Leave** - DUoC reserves the right to place a non-student employee respondent on administrative leave during the pendency of a grievance process under this policy.
- J. **Amnesty for Student Code of Conduct Violations** – A student who participates as a complainant or witness in an investigation of conduct prohibited by this policy will not be subject to disciplinary sanctions for a violation of DUoC's student conduct policy at or near the time of the incident, unless DUoC determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

## VII. Grievance Procedures Principles

- A. **Non-Adversarial Process** – the investigation and adjudication of alleged misconduct is not an adversarial process between the complainant, the respondent(s), and the witnesses. It is a process for DUoC to comply with DUoC's obligations under existing law.
- B. **Evidentiary Standard** – any finding of responsibility, whether made via written determination after an investigation or via written determination after a live hearing

shall use the *preponderance of the evidence* standard. This standard requires that *it is more likely than not* that the alleged conduct occurred.

**C. Burden of Proof**

1. The complainant does not have the burden of proving the underlying allegation(s) or allegation(s) of misconduct
2. The respondent does not have the burden of disproving the underlying allegation(s) or allegation(s) of misconduct.
3. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on DUoC and not on the parties., provided that DUoC cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless DUoC obtains that party's voluntary, written consent to do so for a grievance process under this section (if a party is not an "eligible student," as defined in 34 CFR 99.3, then DUoC must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3).

**D.** DUoC will require and ensure that any individual designated as a Title IX Coordinator, investigator, decision-maker, or any person to facilitate an informal resolution process is neutral and does not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. DUoC may use internal personnel or external parties in the informal resolution process or the grievance process, provided that they meet this requirement.

**E.** DUoC shall ensure that the investigation and adjudication of complaints is impartial and trauma-informed.

**F.** All parties have an opportunity to have a support person or advisor accompany the party to any stage of the process. All parties have the right to consult with an attorney, at their own expense, at any stage of the process if they wish to do so. DUoC [will/will not] provide a party with an advisor if the party is unable to.

**G. Extensions of Time in the Grievance Process** - The Title IX Coordinator may grant or deny requests from either party to temporarily delay the grievance process or may issue the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the

action. Such requests will not be unreasonably denied by DUoC where the request is related to a period of examination or school closure.

Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

- H. DUoC will provide periodic updates on the grievance process to the complainant and respondent consistent with the timelines referenced in this policy.

### **VIII. Evidentiary Principles**

The following principles apply equally to the investigatory phase and the hearing phase of a grievance process under this policy where a determination is made by DUoC that a hearing phase is necessary.

- A. An investigator and/or hearing officer shall not consider the past sexual history of a complainant or respondent except in the following limited circumstances:
  - 1. Only where prior or subsequent sexual history between the complainant and anyone other than the respondent is directly relevant to provide that physical injuries alleged to have been inflicted by the respondent were inflicted by another individual;
  - 2. Where the existence of a dating relationship or prior or subsequent consensual sexual relations between the complainant and respondent is relevant to how the parties communicated consent in prior or subsequent sexual relations.
- B. Where an investigator and/or hearing officer allows consideration of evidence of a dating relationship or prior or subsequent consensual sexual relations between complainant and respondent pursuant to the above, the mere fact that complainant and respondent engaged in other consensual sexual relations with one another is never sufficient, in isolation, to establish that the conduct in question was consensual.
- C. Prior to allowing consideration of any evidence described in this section, the investigator and/or hearing officer shall provide a written explanation to the parties as to why consideration of this evidence is consistent with these standards.
- D. Parties shall be given the opportunity to identify witnesses and other evidence to assist in determining whether a violation of this policy has occurred. Parties are informed that any evidence available, but not disclosed during the investigation, might not be considered at a subsequent hearing, if such a hearing takes place.

## **IX. Informal Resolution of Complaints of Prohibited Sexual Harassment**

- A.** Consistent with the requirements of this section, at any time prior to reaching a determination regarding responsibility DUoC may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that DUoC:
  - 1.** Provides to the parties a written notice disclosing:
    - a.** The allegations;
    - b.** The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the complaint; and
    - c.** Obtains the parties' voluntary, written consent to the informal resolution process and does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
  - 2.** Completes the informal resolution process withing sixty (60) days of receiving the complaint, unless unusual or complex circumstances exist
- B.** DUoC cannot mandate mediation to resolve allegations of sexual harassment and cannot allow mediation, even on a voluntary basis, to resolve allegations of sexual violence.
- C.** DUoC will not require informal resolution as a prerequisite to the receipt of remedial measures from DUoC which safeguard the complainant's access to education.
- D.** DUoC does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of sexual harassment under this policy. DUoC shall not require the parties to participate in an informal resolution process.

## **X. Procedural Steps for Investigation of Complaints**

- A. Notice of Investigation** - The DUoC's Title IX Coordinator initiates the investigation process by providing written notification to both parties that DUoC is conducting a

formal investigation into the complaint (a Formal Complaint, as defined in the Title IX Policy is not required). This written notification shall contain the following:

1. This policy (as a link or attachment);
  2. Notice of the allegations of prohibited conduct as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under this policy, and the date and location of the alleged incident, if known;
  3. Identification of the alleged institutional policy violations under review;
  4. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
  5. Notification to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney;
  6. Notice to the parties regarding appropriate counseling resources developed and maintained by DUoC for parties in misconduct matters involving sexual harassment;
  7. Notification to the parties that they may inspect and review evidence, as set forth in this policy; and
  8. A statement (or reference to any provision in DUoC's code of conduct) that DUoC prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- B. Consolidation of Related Complaints** - Where multiple complaints arise out of the same set of factual allegations or where multiple policies may be implicated by the same set of factual allegations, DUoC reserves the discretion to bifurcate, consolidate and/or combine the investigation and/or adjudication of those complaints.
- C. Amended Notice of Investigation** - If, in the course of an investigation, DUoC decides to investigate allegations about the complainant or respondent that are not included in the initial notice of investigation, DUoC must provide notice of the additional allegations to the parties whose identities are known.

- D.** If not serving as the Investigator, the Title IX Coordinator will appoint an Investigator, who may be an employee or official of DUoC or may be an external investigator with appropriate experience or expertise. The parties will be provided with notice of the identity of the appointed Investigator and will be informed that any objections to the service of the appointed Investigator on grounds of conflict of interest or a lack of impartiality should be submitted in writing to the Title IX Coordinator within three (3) days of notice of the appointment. The Title IX Coordinator will decide promptly whether the appointed Investigator will or will not continue to conduct the investigation. Any materials collected or notes prepared by the Investigator during the objection period will be turned over to any replacement Investigator. The replacement Investigator will decide whether to use such materials or not
- E.** When investigating a complaint, DUoC shall, within 30 days of notifying the parties of the investigation, unless unusual or complex circumstances exist:
- 1.** Engage in fact-gathering of all relevant facts. Credibility resolutions and fact-finding shall be conducted in the live hearing phase of the grievance process;
  - 2.** Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, including the evidence upon which DUoC does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation;
  - 3.** Prior to completion of the investigative report, send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report;
  - 4.** Make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
  - 5.** Create an investigative report that fairly summarizes relevant evidence.
- F.** At least ten (10) days prior to a hearing, if one is held, or other time of determination regarding responsibility, the Title IX Coordinator shall send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy,

for their review and written response. Upon finalization of the investigative report, the Title IX Coordinator shall provide it to the decision-maker(s).

## **XI. Hearings for Complaints of Prohibited Sexual Harassment**

- A.** Following the investigation, DUoC shall make a determination as to whether a live hearing is necessary to determine whether the alleged conduct is more likely than not to have occurred. In making this determination, DUoC shall consider the following:
- Whether the parties elected to participate in the investigation;
  - Whether each party had the opportunity to suggest questions to be asked of the other party or witnesses, or both, during the investigation; and
  - Whether the credibility of witnesses is at issue and significant disciplinary sanctions are possible such that a live hearing would help to resolve credibility determinations.

Where DUoC has determined that it is appropriate and necessary to hold a live hearing, the following procedures shall be used:

- B.** Following the investigation, within 30 days of sending the final investigative report to the parties, unless unusual or complex circumstances exist, DUoC shall conduct a live hearing in front of the decision-maker(s), which may be an individual [HEARING OFFICER] or a Review Panel [REVIEW PANEL] for t The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator or the investigator(s). A decision-maker may include internal employees or external third-parties contracted by DUoC.

If using a Review Panel, the Title IX Coordinator will choose three Review Panel members from its pool to attend the hearing and make determinations. All potential Review Panel members will receive annual training as specified by this policy. The parties each may challenge the participation of any member of the Review Panel for conflict of interest or other good cause. The Title IX Coordinator will make the final decision whether to select an alternate upon a challenge from a party. If using a Review Panel, the Title IX Coordinator will appoint a member of the Review Panel to be Chair of the Review Panel.

### **C. Pre-Hearing Procedures**

1. The parties shall separately participate in a pre-hearing meeting with the [HEARING OFFICER/REVIEW PANEL] to discuss the process and administration of the live hearing.



2. Prior to or during this meeting, the [HEARING OFFICER/REVIEW PANEL] will set the deadlines for submitting and exchanging the names of witnesses, evidence and pre-hearing questions.
  3. All parties shall have the opportunity to submit written questions to the [HEARING OFFICER/REVIEW PANEL] in advance of the live hearing.
- D.** The live hearing will be closed. The only individuals permitted to participate in the hearing are as follows: the complainant and respondent, the decision-maker(s), the advisor for each party, any witnesses (only while being questioned), and any individual providing authorized accommodations or assistive services.
- E.** Live hearings may be conducted with all parties physically present in the same geographic location or, at DUoC's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- F.** At the request of either party, DUoC shall provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
- G.** The [HEARING OFFICER/REVIEW PANEL] shall provide an explanation of the meaning of the *preponderance of the evidence* standard and affirm that it will apply to the adjudication of the issues before the [HEARING OFFICER/REVIEW PANEL].

#### **H. Questioning at the Live Hearing**

1. The parties shall have the opportunity to submit written questions to the [HEARING OFFICER/REVIEW PANEL] in advance of the hearing;
2. No direct examination or cross examination of any party or witness shall be conducted by a party or party advisor. Direct examination or cross examination will only be conducted by the [HEARING OFFICER/REVIEW PANEL];
3. The [HEARING OFFICER/REVIEW PANEL] shall prohibit questions of either party or of any witnesses that are repetitive, irrelevant or harassing;
4. The parties or their advisors shall have the opportunity to note a written objection to the question(s) posed. Neither the [HEARING OFFICER/REVIEW PANEL] nor DUoC are obligated to respond to the objection – other than to include any objection in the record.

5. The [HEARING OFFICER/REVIEW PANEL] shall have the authority and obligation to discard or rephrase any question that the [HEARING OFFICER/REVIEW PANEL] determines to be repetitive, irrelevant, or harassing. In making these determinations, the [HEARING OFFICER/REVIEW PANEL] is not bound by, but may take guidance from, the California Rules of Evidence.
6. Generally, the parties or their advisor(s) may not introduce evidence, including witness testimony, at the hearing that the party did not identify during the investigation and that was available at the time of the investigation. The [HEARING OFFICER/REVIEW PANEL] has the discretion, for good cause, to accept or exclude such new evidence offered at the hearing.

#### **I. Use of Witness Statements**

1. If a party or witness does not submit to cross examination at the live hearing, for cases involving significant disciplinary sanctions against students, the [HEARING OFFICER/REVIEW PANEL] must not rely on any statement of that party or witness that has not been subject to cross-examination when making a credibility determination but may reach a determination based on evidence that does not constitute a statement by the party. For purposes of this paragraph, cross examination refers to questions posed by the [HEARING OFFICER/REVIEW PANEL], whether its own or questions provided by a party.
2. The [HEARING OFFICER/REVIEW PANEL] cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross examination or other questions

#### **J. Written Determination of the Decision-Maker**

1. Either after the submission of the final investigative report if there is no live hearing or after the completion of the live hearing, unless unusual or complex circumstances exist, the decision-maker shall issue a written determination regarding responsibility. Such a written determination shall be issued within fourteen days of the conclusion of the live hearing or, if there is no hearing, of the submission of the final investigative report to the parties.
2. If the decision-maker is a Review Panel, a majority of the Review Panel members must find that a policy violation occurred and a majority of the Review Panel members must assent to any sanction(s) imposed. To reach this determination, the decision-maker(s) must utilize the preponderance of the evidence standard.

3. The written determination must be sent simultaneously to both parties and must include:
  - a. Notice of the outcome of the complaint including identification of the allegations potentially constituting sexual harassment as defined by this policy;
  - b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings;
  - c. Findings of fact supporting the determination;
  - d. Conclusions regarding the application of DUoC's policy to the facts;
  - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to DUoC's education program or activity will be provided to the complainant; and
  - f. The procedures and permissible bases for appeal, as set forth in this policy.
4. In the written determination, DUoC shall provide assurances that it will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.
5. The determination regarding responsibility becomes final either on the date that DUoC provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

## **XII. Appeals**

### **A. Grounds**

Within ten (10) days receiving the written determination, either party may appeal from a determination of responsibility, and from DUoC's dismissal of a complaint or any allegations therein, on the following grounds:

1. Procedural irregularity that affected the outcome of the matter;

2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), and/or decision-makers had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The appeal must be made in writing and sent to the Title IX Coordinator.

## **B. Response to Appeals**

As to all appeals, the Title IX Coordinator (or designee) shall:

1. Notify the other party in writing immediately when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal are not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in this policy; and
4. Give the non-appealing party an opportunity to submit a written statement in response to the appeal within ten (10) days of receipt of the appeal, which shall be transmitted within two (2) business days to the appeal decision-maker(s).

## **C. Decision on Appeal**

Within twenty (20) days of receiving the appeal and the response, the appeal decision-maker(s) shall issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both parties. The appeal decision-maker(s) may deny the appeal or, if the appeal ground(s) has or have been met, may return the case to the initial decision-maker(s) for reconsideration, or convene a new hearing. If a case is returned to the initial decision-maker(s), the appeal decision-maker(s) shall identify which aspects merit further review.

## **XIII. Remedies and Sanctions**

- A. Remedies must be designed to restore or preserve equal access to DUoC's education program or activity.

- B.** A student found responsible for a violation of this policy will be subject to sanction(s) regardless of whether legal proceedings involving the same incident are underway or anticipated. An employee found responsible for a violation of this policy will be subject to sanction(s) up to and including termination of employment.
- C.** Possible sanctions and remedies that DUoC may implement following any determination of responsibility against a student may include: expulsion, withdrawal of an awarded degree, a no contact order, written warning, suspension, a fine, restitution, community service, probation, reference to counseling, termination of employment, and notation in the respondent's official student or personnel file of the fact of the violation and the sanction.
- D.** The Title IX Coordinator is responsible for effective implementation of any remedies.

#### **XIV. Confidentiality**

- A.** Consistent with the requirements of this policy, DUoC shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. This means that DUoC will protect the party's privacy consistent with this Policy but may disclose information to those who have a legitimate need to know, and, in order to process complaints under this policy.

Confidentiality is not absolute, however. Where criminal conduct has occurred, or where the health and/or safety of others in the community may be in danger, it may be necessary for DUoC to take appropriate steps to protect the safety of its students and employees, including the person who has reported the misconduct

Counselors and medical providers working at or on behalf of DUoC are Confidential Resources. In most cases, Confidential Resources at DUoC will not share the substance of any such communications or that such communications occurred without consent. Individuals who wish to talk about issues related to sexual harassment or sexual misconduct confidentially, with the understanding that DUoC will not take any action based on such confidential communications, are encouraged to contact one of these Confidential Resources.

Confidential resources may, however, have an obligation to disclose otherwise-privileged information where they perceive an immediate and/or serious threat to a person and/or property. This is a limited exception to the privileged nature of communications with Confidential Resources. Reports or records maintained by DUoC (including Counseling Service records), and other confidential, non-privileged records may, however, be subject to a subpoena if civil or criminal charges are filed in court.

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Confidential Resources will not report Clery crimes they learn about through confidential communications for purposes of DUoC's compilation of campus crime statistics.<sup>3</sup> In addition, when appropriate and legally permissible, DUoC shall conduct record-keeping on reports of dating violence, domestic violence, stalking and sexual assault, such as that collected for legally required disclosures, that excludes personally-identifiable information of any complainants.

Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if he or she provides medical services for a *physical condition* to a person who he or she knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury where the injury is the result of assaultive or abusive conduct (including Sexual Assault, and Dating and Domestic Violence). This requirement does *not* apply to sexual assault and domestic violence counselors and advocates.

## **XV. Training**

DUoC provides training to all non-confidential responsible employees, as defined above, relating to sexual harassment. DUoC requires all non-confidential responsible employees, as defined below, to report sexual harassment and has provided direction and training as to the reporting of sexual harassment.

All employees of DUoC are provided training on the identification of sexual harassment including training on the process of notification to the appropriate institutional official(s). All employees are notified of their obligation to report sexual harassment to the appropriate institutional officials.

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<sup>3</sup> Crimes reported to a pastoral or professional counselor are not required to be reported by an institution under the Clery Act; however, institutions are strongly encouraged to establish voluntary, confidential reporting processes so that incidents of crime that are reported exclusively to professional and pastoral counselors will be included in the annual crime statistics. 34 C.F.R. §668.46(b)(2)(iii).

The Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process (whether internal or external) shall receive training on the definition of sexual harassment under this policy, the scope of DUoC's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. These individuals shall receive annual comprehensive, trauma-informed training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

Such training will address trauma-informed investigatory and hearing practices that help ensure an impartial and equitable process, best practices for assessment of a sexual harassment or sexual violence complaint, best practices for questioning of the complainant, respondent, and witnesses, and implicit bias and racial inequities, both broadly and in school disciplinary processes.

Materials shall include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity.

## **XVI. Recordkeeping**

**A.** DUoC shall maintain for a period of seven years records of:

- 1.** Each investigation conducted under this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript required under this policy, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to DUoC's education programs or activities;
- 2.** Any appeal and the result therefrom;
- 3.** Any informal resolution and the result therefrom; and
- 4.** Records of any actions, including any Supportive Measures, taken in response to a report or complaint under this policy. In each instance, DUoC will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to DUoC's education program or activity. If DUoC does not provide a complainant with Supportive Measures, then DUoC must document the reasons

why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit DUoC in the future from providing additional explanations or detailing additional measures taken.

#### **XVII. Effective Date**

This policy is effective as of January 1, 2022 and was approved by the DUoC's Board of Trustees on December 13, 2021.

***END OF POLICY ON NON-TITLE IX SEXUAL HARASSMENT AGAINST STUDENTS (SB 493)***



## DISCRIMINATION, HARASSMENT AND RETALIATION PREVENTION POLICY (DHR Policy)

### I. Scope

This policy prohibits:

Discrimination and harassment on the basis of a legally protected category except as covered in the *Title IX Policy* or the *Policy on Non-Title IX Sexual Harassment Against Students*; and

Retaliation for reporting or participating in the procedures set forth in this policy, the *Title IX Policy* and the *Policy on Non-Title IX Sexual Harassment Against Students*.

This policy prohibits this behavior by students, employees or any other persons or third parties with whom DUoC's employees have contact through their employment or education, including applicants, students, student-employees, interns, volunteers, and independent contractors.

This policy prohibits this behavior against DUoC's employees, including student-employees, students, volunteers, unpaid interns, and applicants for employment or enrollment. All DuoC students, employees, volunteers, and unpaid interns are responsible for carrying out this policy.

This policy applies to prohibited conduct that occurs:

- In DUoC's educational programs and activities;
- In the workplace (including the remote workplace during working time) or anywhere on DUoC's property;
- Off-campus, if the Prohibited Conduct occurred in connection with an DUoC work event, activity, program, or event or at a location owned or controlled by DUoC; or
- Off-campus, if the off-duty Prohibited Conduct has or reasonably may have the effect of creating a hostile work or educational environment.

### II. Prohibited Conduct

DUoC prohibits harassment and discrimination on the basis of race (including hair texture and protective hair styles), ethnicity, color, religion (including religious dress and grooming practices), creed, ancestry (including shared ancestry discrimination and harassment as defined below), national origin, age, medical condition, physical or mental disability, sexual orientation, sex, gender (including sexual harassment, gender identification, gender expression, transgender status), genetic information, marital status (including registered domestic partner status), reproductive health decisions, military and veteran status, lawful change of name, Social Security Number or federal employment authorization document, receipt of Medi-Cal coverage, California driver's license with a

“federal limits apply” notation, or any other characteristic protected by local, state or federal law.

Discrimination or harassment on the basis of sex includes harassment or discrimination on the basis of [pregnancy](#), childbirth, or related medical conditions, breastfeeding, and conditions related to breastfeeding. Harassment on the basis of sex is also prohibited by the *Title IX Policy* or the *Policy on Non-Title IX Sexual Harassment Against Students*. The definitions and procedures in those policies will be followed.

DUoC further prohibits retaliation. Retaliation is an adverse action that is taken because someone files a complaint or participates in this process as a witness. DUoC will not retaliate, nor will it tolerate retaliation, against students, faculty or staff who make good faith reports about discrimination, harassment or retaliation in the workplace, whether internally or to an outside agency, or who participate in any workplace investigation under this policy.

#### **A. Definition of Prohibited Harassment in Educational Programs and Activities**

In addition to the conduct prohibited by the [Title IX Policy](#), the University prohibits non-sexual harassment on the basis of a protected category its programs and activities against non-employees by employees, other students, volunteers, and unpaid interns. Harassment in education programs and activities includes harassing conduct (e.g., physical, verbal, graphic or written) on the basis of a protected category that is so sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of a student to participate in or benefit from the services, activities or privileges provided by the University.

Complaints involving prohibited harassment in educational programs and activities (except student-employees who are making a complaint in their capacity as employees) will use the above definitions and shall be resolved pursuant to this policy unless otherwise covered by the *Title IX Policy* or the *Policy on Non-Title IX Sexual Harassment Against Students*.

#### **B. Definition of Prohibited Harassment in Employment**

Harassment in employment means any unwelcome behavior that is reasonably regarded as offensive that is based on a protected category listed above that:

1. Sufficiently offends, humiliates, distresses, or intrudes upon its victim, so as to disrupt the victim’s emotional tranquility in the workplace, or
2. Affects the victim’s ability to perform the job as usual, or
3. Otherwise interferes with and undermines the victim’s personal sense of well-being.

A single incident of harassing conduct may create a hostile work environment if the harassing conduct has unreasonably interfered with the victim's work performance or created an intimidating, hostile, or offensive work environment.

Whether or not the person meant to give offense or believed their comments or conduct were welcome is not significant. Rather, the policy is violated when other individuals, whether recipients or mere observers, are actually offended by comments or conduct based on any protected category and the conduct is considered offensive by a reasonable person.

Examples of conduct based on a protected category that may constitute harassing conduct may include, but are not limited to:

- Making gestures, threats, derogatory comments, or slurs that may be reasonably regarded as offensive to individuals in a particular group
- Bullying behavior that is threatening, intimidating, verbally abusive or results in other disruptive actions in the workplace
- Displaying derogatory objects, photographs, cartoons, calendars, or posters

### **C. Definition of Non-Title IX Sexual Harassment in Employment**

Sexual harassment in employment is a particular type of harassment. Certain types of sexual harassment are addressed by DUoC's *Policy on Sexual Harassment Prohibited by Title IX*.

Under this Policy, prohibited sexual harassment in employment includes behavior not covered by DUoC's *Title IX Policy*, such as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to such conduct:

1. Is made a condition of employment or employment decision (*Quid Pro Quo*); or
2. Meets the definition of harassment in employment as stated above (*Hostile Work Environment*).

Examples of conduct that may constitute prohibited sexual harassment in employment may include but are not limited to:

1. Unwanted physical touching;
2. Telling sexually explicit jokes or stories;
3. Making comments or gestures reasonably regarded as lewd or offensive;
4. Displaying sexually suggestive objects, cartoons, or pictures;
5. Sending sexually explicit messages by letter, notes, electronic mail, social media posting, or telephone;
6. Making unwelcome comments reasonably regarded as offensive about a person's body, physical appearance, or clothing;
7. Frequent use of unwelcome terms of endearment; or

8. Repeatedly asking an individual for a date or meetings outside of working hours after they have indicated an unwillingness to go.

DUoC also prohibits sexual assault, dating violence, domestic violence and stalking based on sex by, as described in the *Title IX Policy*. If this conduct does not fall under the jurisdiction of DUoC's *Title IX Policy*, DUoC reserves the right to address this conduct under the procedures of this Policy, using the same definitions of prohibited conduct as the *Title IX Policy* and the definition of affirmative consent. In these cases, as required by VAWA, the parties shall be entitled to have an advisor of choice at any meetings or proceedings and to receive simultaneous notice of the outcome and results and the available appeal procedures. DUoC's victim's resource packet is available from the Title IX Coordinator.

#### **D. Discrimination in Dominican's Educational Programs and Activities**

DUoC also prohibits discrimination based on a lawfully protected category in employment, and its educational programs and activities. This is separate from harassment. Discrimination occurs when the institution (and employees) treats an individual differently based on protected categories while performing acts that are in the course and scope of employment of the person committing discrimination. Complaints of discrimination shall be processed under this policy.

DUoC's statements of non-discrimination shall be published as required by law and shall state:

##### **1. Title IX Statement**

DUoC does not discriminate based on sex in any program or activity, including in the admissions process and employment, and is prohibited from such discrimination by Title IX and 34 CFR Part 106.

Complaints of discrimination based on sex or questions about Title IX can be directed to DUoC's Title IX Coordinator or to the U.S. Assistant Secretary of Education, or both. To make a report or complaint of sex discrimination or sexual harassment, or for any questions related to Title IX, please contact:

*Dr. Erica D'Agostino (Interim Coordinator)*  
*erica.dagostino@dominican.edu or [TitleIX@dominican.edu](mailto:TitleIX@dominican.edu)*  
*(423) 667-1838*

##### **2. Section 504 Statement**

DUoC does not discriminate based on disability in any program or activity, including in the admissions process, and is prohibited from such discrimination by Section 504 of the Rehabilitation Act. Denial of an accommodation and disability-discrimination complaints by a student or participant in DUoC's

educational programs and activities, where such accommodation and disability-discrimination is unrelated to employment by DUoC, shall be made pursuant to the [Section 504 Grievance Policy and Procedure](#).

Complaints of disability discrimination can be directed to DUoC's Section 504 Coordinator or to the U.S. Assistant Secretary of Education, or both. To make a report or complaint of discrimination please contact:

*Matthew Mueller - Section 504 Coordinator*  
[matthew.mueller@dominican.edu](mailto:matthew.mueller@dominican.edu) | (415) 257-1388  
*Bertrand Hall 109*  
*50 Acacia Avenue*  
*San Rafael, CA 94901*

Questions or complaints about Title IX or Section 504 may be directed to the assistant secretary for civil rights:

*Office for Civil Rights; San Francisco Office*  
*U.S. Department of Education*  
*50 United Nations Plaza*  
*San Francisco, CA 94102*  
*Telephone: (415) 486-5555 | Facsimile: (415) 486-5570*  
*Email: [OCR.SanFrancisco@ed.gov](mailto:OCR.SanFrancisco@ed.gov)*

### **3. Title VI Statement**

DUoC does not discriminate based on race, color or national origin in any program or activity, including in the admissions process and employment, and is prohibited from such discrimination by Title VI. This includes discrimination or retaliation based on race, color, or national origin, including harassment because of actual or perceived shared ancestry such as Jewish, Israeli, Palestinian, Muslim, Arab, and/or South Asian descent, citizenship, or association ( "shared ancestry discrimination and harassment").

To make a report or complaint of discrimination or for any questions related to Title VI, please contact:

*Jennifer DiTrani*  
[jennifer.ditrani@dominican.edu](mailto:jennifer.ditrani@dominican.edu)  
*415-482-1946*  
*Carriage House (behind Magnolia Admissions Building)*

### **4. Age Discrimination Act of 1975 Statement**

DUoC does not discriminate based on age (over 40) in any program or activity, including in the admissions process and employment and is prohibited from such discrimination by the Age Discrimination Act of 1975. To make a report or

complaint of discrimination or for any questions related to the Age Discrimination Act of 1975, please contact:

*Shanice Whitaker*

[shanice.whittaker@dominican.edu](mailto:shanice.whittaker@dominican.edu)

*P. 415-482-1823*

*Carriage House (behind Magnolia Admissions Building)*

### **E. Reporting Conduct Prohibited by This Policy**

DUoC encourages individuals who believe they are subject to conduct prohibited by this Policy to, whenever possible, promptly advise the offender that their behavior is unwelcome/unacceptable and request that it be discontinued. DUoC recognizes that an individual may prefer to pursue the matter through an informal or formal complaint process. Any manager or supervisor who witnesses or hears about conduct prohibited by this policy must immediately report the conduct to the Director of Human Resources.

DUoC encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. Individuals who feel they have been subjected to or who have witnessed such conduct should promptly report the complaint because early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents. However, late reporting by itself will not preclude DUoC from taking appropriate action.

Any good faith discrimination, harassment, or retaliation complaint or concern that is brought to DUoC's attention as a potential violation of this policy will be reviewed and resolved, even if the complaint or concern comes to light in a manner that is not addressed as outlined in this section. Counselors and medical providers working at or on behalf of DUoC are confidential resources for purposes of this Policy and any complaint of behavior covered by this Policy that is brought to their attention is not considered notice to DUoC, however, these individuals may be required to report such information as required by their licensing body.

### **III. Procedures for Resolving Complaints of Prohibited Conduct Under This Policy**

DUoC will follow the procedures set forth below to ensure prompt and equitable resolution of complaints of conduct prohibited by this Policy. Certain types of sexual harassment are addressed by the [Title IX Policy](#) or the [Policy on Non-Title IX Sexual Harassment Against Students](#) and not by this policy.

If reported conduct is covered under the Violence Against Women Reauthorization Act of 2013 amendments to the Clery Act (domestic violence, dating violence, stalking, or sexual assault), but is not included within the scope of the [Title IX Policy](#) or the [Policy on Non-Title IX Sexual Harassment Against Students](#), the obligations under the 2013 amendments to the Clery Act, will apply. An example of this would be a sexual assault

against an employee by another employee that occurs outside of the jurisdiction of *the Title IX Policy*.

For complaints proceeding pursuant to this Policy, DUoC will take appropriate action in response to complaints or knowledge of such behaviors while preserving the rights of those against whom allegations have been made to receive procedural protections in the fact-finding and decision-making process. All such investigations will be conducted by qualified, impartial personnel in a manner that is fair, equitable, and timely to all parties. DUoC maintains the confidentiality of such investigations to the extent possible, documents and tracks investigations to ensure reasonable progress, and closes investigations in a reasonably timely manner.

All complaints shall be acknowledged promptly and resolved timely. Interim and remedial measures shall be considered on a case-by-case basis.

### **A. Informal Complaint Process**

Individuals who believe they have been the victim of conduct prohibited by this policy or believe they have witnessed such conduct should discuss their concerns with their immediate supervisor, the Vice President for Academic Affairs, Vice President for Student Affairs, or the Director of Human Resources. DUoC representatives will attempt to resolve the complaint. The Director of Human Resources or Vice President for Student Affairs will be informed when a complaint or report is received. If resolution is reached, a record of the resolution will be maintained on file in the Human Resources Department or the Student Conduct Office in the event the complaint moves from informal to formal. Participation in the informal complaint process is optional and not a prerequisite to filing a formal complaint.

### **B. Formal Complaint Process**

Individuals who believe they have been the victim of conduct prohibited by this policy or believe they have witnessed such conduct who wish to file a formal complaint should contact the Vice President for Students Affairs or the Director of Human Resources (or their designees) and do not need to directly complain to their immediate supervisor. If the complaint is against the Director of Human Resources or the Vice President for Student Affairs, the individual should contact the President. It is helpful for the individual to submit the complaint in writing, but a written complaint is not required in order for DUoC to investigate under this Policy. If a Formal Complaint has already been filed under DUoC's *Title IX Policy* or the *Policy on Non-Title IX Sexual Harassment Against Students*, resolution of that process shall be completed prior to the invocation of this process.

Any reported allegations of conduct prohibited by this Policy will be reviewed promptly and impartially by qualified personnel (including external third-parties when necessary) under the direction of the Director of Human Resources, unless the report is against the Director of Human Resources or the Vice President for Student Affairs, in which case the President will direct the process. When an investigation is



necessary, the investigator will conduct a fair, timely, and thorough investigation that provides all parties appropriate a fair process and reaches reasonable conclusions based on the evidence collected. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant information. Confidentiality will be maintained throughout the investigation to the extent possible consistent with adequate investigation practices. This means that allegations will not be kept completely confidential and information will be disclosed to those who have legitimate need to know. The investigation process will give persons accused of prohibited conduct notice of the nature of the allegations and a meaningful opportunity to respond. The standard of proof shall be preponderance of the evidence.

After the investigation is complete, the Director of Human Resources or Vice President for Student Affairs shall recommend how the University shall resolve the matter in terms of eliminating discrimination/harassment and ensuring compliance with this Policy. If a determination is made that there has been a violation of this Policy, the Director of Human Resources, in consultation with the Vice President of Finance and Administration and/or the Vice President of Academic Affairs shall take necessary steps to ensure compliance with this Policy and determine what disciplinary action, if any, shall be imposed. If at the end of the investigation misconduct is found, appropriate remedial measures shall be taken. Any student, faculty or staff who is found to have violated this Policy will be subject to corrective action. Corrective action for employees could include required subject matter courses/development, letter(s) of reprimand, and disciplinary action up to and including termination of employment.

The Director of Human Resources, in consultation with the Vice President of Finance and Administration and/or the Vice President of Academic Affairs is responsible for communicating and administering approved disciplinary action. All actions shall be timely and shall consider appropriate remedial actions and resolutions. The case shall be closed in a timely manner.

#### **IV. Appeals**

Within 10 days of receiving the written determination, either party may appeal from a determination regarding responsibility on the following grounds:

**Ground 1:** Procedural irregularity that affected the outcome of the matter;

**Ground 2:** New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and



**Ground 3:** The 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 affected the outcome of the matter.

Appeals must be sent to the Vice President of Academic Affairs in writing.

#### **A. Response to Appeals**

As to all appeals, the Vice President of Academic Affairs (or their designee) shall:

1. Notify the other party in writing immediately when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, or the investigator(s);
3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in this policy;
4. Give the non-appealing party an opportunity to submit a written statement in response to the appeal within 10 days of receiving the appeal, which shall be transmitted within 2 business days to the Appeal decision-maker(s).

#### **B. Decision on Appeal**

Within 20 days of receiving the appeal and the response, the Appeal decision-maker(s) shall issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both parties. The Appeal decision-maker(s) may deny the appeal or, if the appeal ground(s) has or have been met, may return the case to the initial decision-maker(s) for reconsideration, or convene a new hearing. If a case is returned to the initial decision-maker(s), the Appeal decision-maker(s) shall identify which aspects merit further review.

### **IV. Required Training**

Every employee upon hire and annually thereafter is required to review this policy, acknowledge they have read and understand its content. Supervisors undergo mandatory sexual harassment prevention training within six months of initial employment and biennially thereafter. Additionally, all non-supervisory employees (including temporary employees and volunteers) must complete a one-hour workplace sexual harassment prevention training within six months of their initial employment and biennially thereafter.

The Department of Fair Employment and Housing offers sexual harassment training at: <https://www.dfeh.ca.gov/shpt/>.

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***END OF UNIVERSITY DISCRIMINATION, HARASSMENT,  
AND RETALIATION PREVENTION POLICY***