

DELAWARE STATE UNIVERSITY



Interim Nondiscrimination & Title IX Policy & Procedures

Effective 08/01/24

INTERIM NONDISCRIMINATION & TITLE IX POLICY & RESOLUTION PROCEDURES FOR ALLEGED VIOLATIONS (hereinafter the “Resolution Process”)

OVERVIEW

The University will act on any Notice, Complaint, or Knowledge of a potential violation of the Nondiscrimination and Title IX Policy (“the Policy”) that is received by the Equity/Title IX Coordinator or any other Mandated Reporter by applying the Resolution Process below.

The procedures below apply to all allegations of discrimination on the basis of an actual or perceived protected characteristic, harassment, retaliation, or Other Prohibited Conduct as involving students, staff, Equity/Title IX Coordinators, faculty members, or third parties.

NONDISCRIMINATION STATEMENT

Delaware State University adheres to all federal, state, and local civil rights laws prohibiting discrimination and harassment in employment and education. The University does not discriminate and does not permit discrimination in its admissions practices, employment practices, or educational programs or activities on the basis of actual or perceived:

- Age
- Color
- Creed
- Disability
- Gender, Gender Identity or Expression
- Genetic Information
- Marital or Familial Status
- National or Ethnic Origin
- Pregnancy or related conditions
- Race
- Religion
- Sex
- Sexual Orientation
- Veteran or Military Status and
- Any other protected category under applicable local, state, or federal law.

Individuals can make inquiries about the University’s Nondiscrimination and Title IX Policy

(which addresses **sex and sex-based discrimination or harassment** and non-sex-based discrimination or harassment (age, race, disability, religion, etc.)) **or make a report or a complaint about an alleged policy violation to** the University's Title IX Coordinator, U.S. Department of Education's Office for Civil Rights, or both.

University's Internal Resources

Office of Equity and Title IX

Mijrane Belizaire, J.D.

Equity & Title IX Coordinator

Martin Luther King, Jr. Student Center

1200 N. Dupont Hwy, Suite #314, Dover, DE 19901

P: 302.857.6374

E: titleix@desu.edu

W: <https://www.desu.edu/TIX>

(please visit this site to file a report or make a complaint)

External Resources for Students

U.S. Department of Education's Office for Civil Rights ("OCR")

400 Maryland Avenue, SW Washington, DC 20202-1100

Phone: (800) 421-3481

Fax: (202) 453-6012

TDD#: (877) 521-2172

Email: OCR@ed.gov

External Resources for Employees

U.S. Equal Employment Opportunity Commission ("EEOC")

Philadelphia District Office

801 Market Street, Suite 1000

Philadelphia, PA 19107-3126

Phone: (800) 669-4000

Fax: (215)440-2606

Email: PDOContact@eeoc.gov

The University's Nondiscrimination & Title IX Policy and resolution procedures are located on the University's website at: <https://www.desu.edu/TitleIX>

NOTICE/COMPLAINT/KNOWLEDGE

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, the Equity/Title IX Coordinator will contact the Complainant/source of the Notice to (1) offer supportive measures, (2) provide information regarding resolution options, and (3) determine how they wish to proceed. This initial Notice/Complaint of an alleged Policy violation can be provided to the Equity/Title IX Coordinator or any Mandatory Reporter verbally or in writing through email, mail, or the University's online reporting form: www.desu.edu/TitleIX.

If a Complaint is made, the Equity/ Title IX Coordinator will initiate a **prompt preliminary inquiry** to determine the University's next steps.

PRELIMINARY INQUIRY

The Equity/Title IX Coordinator conducts a preliminary inquiry typically within ten (10) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.¹ The preliminary inquiry typically includes:

1. Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
 - a. If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
2. Determining whether University has jurisdiction over the reported conduct, as defined in the Policy.
 - a. If the conduct is not within University jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate University office for resolution.
3. Offering and coordinating supportive measures for the Complainant.
4. Offering and coordinating supportive measures for the Respondent, as applicable.
5. Notifying the Complainant, or the person who reported the allegation(s), of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
6. Determining whether the Complainant wishes to make a Complaint.
7. Notifying the Respondent of the resolution processes, if there is no dismissal of the Complaint, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

INITIAL COMPLAINT - HELPING A COMPLAINANT TO UNDERSTAND OPTIONS

¹ If circumstances require, the Office of General Counsel will appoint a Designees or oversee the Resolution Process should an allegation be made about the Equity/Title IX Coordinator or the Equity/Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint), whether verbally or in writing, then the Equity/Title IX Coordinator will help to facilitate the Complaint, which will include:

- Working with the Complainant to determine whether the Complainant wishes to pursue one of three resolution options:
 1. a supportive and remedial response, and/or
 2. Informal Resolution, or
 3. the Resolution Process described below.

The Equity/Title IX Coordinator will seek to abide by the wishes of the Complainant but may have to take an alternative approach depending on their analysis of the situation.

If the Complainant elects for the Resolution Process below, and the Equity/Title IX Coordinator has determined the Policy applies and that the University has jurisdiction, they will route the matter to the appropriate Resolution Process, will provide the Parties with a Notice of Investigation and Allegation(s), and will initiate an investigation consistent with these Procedures.

If any Party indicates (either verbally or in writing) that they want to pursue an Informal Resolution option, the Equity/Title IX Coordinator will assess whether the matter is suitable for Informal Resolution and refer the matter, accordingly.

If the Complainant indicates (either verbally or in writing) that they do not want any action taken, no Resolution Process will be initiated (unless deemed necessary by the Equity/Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

EQUITY/TITLE IX COORDINATOR AUTHORITY TO INITIATE A COMPLAINT

If the absence of complaint or withdrawal by Complainant, the Equity/Title IX Coordinator, who has ultimate discretion as to whether a Complaint is initiated, will offer supportive measures, and determine whether to initiate a Complaint themselves. To make this determination, the Equity/Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if the University cannot ensure equal access without initiating a Complaint. The Equity/Title IX Coordinator will at minimum consider the following non-exhaustive factors to determine whether to file a Complaint:

1. The Complainant's request not to proceed with initiation of a Complaint;
2. The Complainant's reasonable safety concerns regarding initiation of a Complaint;
3. The risk that additional acts of discrimination would occur if a Complaint were not initiated;
4. The severity of the alleged discrimination, including whether the discrimination, if

- established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the Parties, including whether the Respondent is a University employee;
 6. The scope of the alleged discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals;
 7. The availability of evidence to assist a Decision-maker in determining whether discrimination occurred;
 8. Whether the University could end the alleged discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the Equity/Title IX Coordinator may consult with appropriate University employees, and/or conduct a violence risk assessment to aid their determination whether to initiate a Complaint.

When the Equity/Title IX Coordinator initiates a Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged conduct that could constitute a violation of this Policy.

COUNTER-COMPLAINTS

The University permits the filing of Counter-Complaints. Nonetheless, the University is obligated to ensure that the resolution process is not abused for retaliatory purposes, therefore, the Equity/Title IX Coordinator will use the preliminary inquiry, described above, to assess whether the allegations in the Counter-Complaint are made in good faith. When Counter-Complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a violation of the Policy.

Counter-Complaints determined to have been reported in good faith will be processed using the Resolution Process below. At the Equity/Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

DISMISSAL OF THE COMPLAINT

The University **may** dismiss a Complaint if, at any time during the investigation or Resolution Process, one or more of the following grounds are met:

1. The University is unable to identify the Respondent after taking reasonable steps to do so,
2. The University no longer enrolls or employs the Respondent,

3. A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the University declines to initiate a Complaint
4. The University determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

A Decision-maker can recommend dismissal to the Equity/Title IX Coordinator, if they believe the grounds are met. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Upon any dismissal, the University will promptly send the Complainant written notification of the dismissal and the rationale for doing so. If the dismissal occurs after the Respondent has been made aware of the allegations, the University will also notify the Respondent of the dismissal.

This dismissal decision is appealable by any party.

APPEAL FOR DISMISSAL OF COMPLAINT

The Complainant may appeal a dismissal of their Complaint. The Respondent may also appeal the dismissal of the Complaint if dismissal occurs after the Respondent has been made aware of the allegations. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal.

The Equity/Title IX Coordinator will notify the Parties of any appeal of the dismissal. If, however, the Complainant appeals, but the Respondent was not notified of the Complaint, the Equity/Title IX Coordinator must then provide the Respondent with a NOIA and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the appeal for complaint dismissal process, the University will:

1. Implement appeal procedures equally for the Parties;
2. Assign a trained Appeal Officer who did not take part in an investigation of the allegations or dismissal of the Complaint;
3. Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the dismissal; and
4. Notify the Parties of the result of the appeal and the rationale for the result.

The grounds for appeals for complaint dismissals are limited to:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was decided;

3. The Equity/Title IX Coordinator, Investigator, or Decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.
4. [The dismissal was erroneously granted or denied]

Upon receipt of an appeal for dismissal of a complaint, in writing from one or more Parties, the Equity/Title IX Coordinator will share the petition with the other party and provide three (3) business days for other Parties to respond to the request. The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. This appeal will be provided in writing to the other Parties, and the Equity/Title IX Coordinator, who will be invited to respond in writing. At the conclusion of the response period, the Equity/Title IX Coordinator will forward the appeal, as well as any response provided by the other Parties to the Dismissal Appeal Officer for consideration.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Officer, and the Parties, their Advisors, and the Equity/Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in this Policy, then the Appeal Officer will notify all Parties and their Advisors, and the Equity/Title IX Coordinator, of their decision and rationale in writing. The effect will be to reinstate the Complaint or Countercomplaint.

In most cases, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeals Officer has ten (10) business days to review and decide on the appeal, though extensions can be granted at the discretion of the Equity/Title IX Coordinator, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Appeal Officer may consult with the Equity/Title IX Coordinator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Equity/Title IX Coordinator will maintain documentation of all such consultation.

EMERGENCY REMOVAL; ADMINISTRATIVE LEAVE

Placing Student on Emergency Removal/Interim Suspension

The University may remove a student accused of Sex Discrimination or Sex-based Harassment upon receipt of Notice/Knowledge, a Complaint, or at any time during the resolution process, in an emergency where the physical health or safety of any Student, Employee or other individual is jeopardized by the on-campus presence of the Respondent

Prior to an emergency removal, the University will conduct an individualized risk assessment and may remove the student if that assessment determines that there is an imminent and serious threat to the health or safety of others that justifies such action.

Students accused of other forms of discrimination (not sex) are subject to interim suspension, which can be imposed for safety reasons.

The Equity/Title IX Coordinator will provide the Respondent with written notice of the Emergency Removal or Interim Suspension and be given an opportunity to challenge the decision within three (3) business days of such notice being sent. Upon receipt of the challenge, the Respondent (along with advisor, if requested) can meet with the Equity/Title IX Coordinator or other designated official, as soon as reasonably possible thereafter to show cause why the Emergency Removal or Interim Suspension should be lifted, or its conditions or duration revised.

The Equity/Title IX Coordinator or other designated official will provide a decision within five (5) business days

When the meeting is not requested within three (3) business days, objections/challenges to the removal or interim suspension will be deemed waived.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Equity/Title IX Coordinator will communicate the final decision in writing, typically within five (5) business days of the review meeting.

Placing an Employee on Leave

Any decision to place a student-employee or non-Student Employee on Administrative Leave – a temporary removal from the University work environment, with or without pay – following an allegation of Prohibited Conduct will be made by Human Resources, based on the specific facts and circumstances presented. Requests for Administrative Leave shall be made to Human Resources in consultation with the appropriate Equity/Title IX Coordinator and/or dean of the respective college, and proceed in accordance with the appropriate employee handbook, collective bargaining agreement, and/or applicable employee policies and procedures.

Consequences of Emergency Removal or Leave

During a period of Emergency Removal or Administrative Leave, a Respondent may be denied access to University Property, including University housing, and University events. Alternative coursework or work options may be pursued, in the discretion of the applicable decision-maker. The University will adjust the conditions and duration of any period of Emergency Removal or Administrative Leave based on the relevant facts and circumstances and will not seek to implement interim measures that are more restrictive than reasonably necessary to mitigate the risks prompting their imposition.

COLLATERAL MISCONDUCT

Collateral misconduct is defined to include potential violations of other University policies not incorporated into the Policy on Nondiscrimination and Title IX that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all charges. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures. In such circumstances, the Equity/Title IX Coordinator may consult with the University's officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of Equity/Title IX Coordinator. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

CONSOLIDATION OF COMPLAINTS

The Equity/Title IX Coordinator may, in their discretion, consolidate multiple Formal Complaints into one investigation and/or adjudication if the evidence related to each alleged incident of Prohibited Conduct would be relevant in reaching a determination as to the other alleged incident(s).

TIME PERIODS FOR COMPLAINT RESOLUTION

The University will make reasonable efforts to resolve complaints in reasonably prompt timeframes. Stated timelines are not binding and create no rights for the parties. The University can extend the deadlines at its discretion.

SELECTION AND ROLE OF AN ADVISOR

Each Complainant and Respondent may be accompanied by one Advisor (family member, mentor, friend, attorney, or any person of their choosing) during all interviews, meetings, and hearings. The party may also choose to include a Support Person. Advisors are advisable and optional for meetings and interviews. A party may elect to change advisors during the process and is not obligated to use the same Advisor throughout. **Parties are required to provide the Equity/Title IX Coordinator timely notice of a change of advisor.**

Advisors are required for hearings. The parties' Advisors will ask all of the cross-examination questions during the hearing. Otherwise, Advisors will not speak or otherwise participate on behalf of their advisee. The party may consult with their Advisor quietly, in writing, or during breaks. The Equity/Title IX Coordinator will assign an Advisor (at no cost) to any party that does not have an Advisor or makes such a request for the purpose of conducting cross-examination at the hearing. The University-appointed Advisor is not an attorney.

As a public entity, the University fully respects and accords the Weingarten rights of employees, meaning that for Parties who are entitled to union representation, the University will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses **are not** permitted to have union representation or Advisors in Resolution Process interviews or meetings.

Records Shared With Advisor

The Equity/Title IX Coordinator, Investigator, or other personnel will communicate information directly to the parties. Timelines and/or deadlines for submission of materials may not be altered to accommodate an Advisor's schedule. Advisors are expected to maintain the privacy of the information shared with them, which must not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any Advisor who does not abide by the University's privacy expectations.

Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). The University may decline to share materials with any Advisor who has not executed the NDA. University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's confidentiality

Advisor Policy Violations

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

NOTICE OF ALLEGATIONS ("NOA")

Once a Formal Complaint is filed, and identity of Respondent is known, then the Title IX Coordinator will provide a written Notice of Allegations to the Complainant and Respondent. This signifies the start of the Informal or Formal Resolution Process. The Notice of Allegations will include:

1. the identities of the parties involved (if known);
2. a reasonably detailed description of facts that constitute the allegations;
3. the date and location of the alleged incident(s);

4. a link, a copy to the University's Resolution procedures under this Policy;
5. the specific policies/offenses implicated
6. a statement that the University will provide notice of any additional allegations to the parties whose identities are known;
7. a statement of the potential sanctions that may result, as well as relevant appeals information;
8. information about the availability of Supportive Measures;
9. a statement that the parties may have an Advisor (including an attorney) of their choice present at any interview, meeting, or proceeding;
10. that the University presumes the Respondent is not responsible for the reported misconduct unless and until there is a finding of responsibility for a Policy violation;
11. that determinations of responsibility are made at the conclusion of the Formal Resolution Process by a preponderance of the evidence standard;
12. that the parties have an equal opportunity to present information, including the names of witnesses and other relevant information, and may inspect and review all relevant evidence obtained.
13. a statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
14. a statement that if the University provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant, and not otherwise impermissible evidence upon the request of any party;
15. that the University prohibits Retaliation, and knowingly making false statements, including knowingly submitting false information during the Resolution Process.

If there are reasonable safety concerns, the Equity/Title IX Coordinator can delay providing the Notice of Allegations. These concerns must be based on individualized safety and risk analysis, not mere speculation.

RESOLUTION PROCESSES

The Resolution Processes, consists of Investigations, Informal Resolution or Formal Resolution (Live Hearing), is the University's chosen approach to addressing all forms of discrimination on the basis of protected characteristics, harassment, and retaliation. The process considers the Parties preferences but is ultimately determined at the Equity/Title IX Coordinator's discretion. Unionized/other categorized employees are subject to the terms of their collective bargaining agreements/employees' rights to the extent those agreements do not conflict with federal or state law or compliance obligations.

Resolution proceedings are confidential. All individuals at all times during the Resolution

Process are expected to maintain the confidentiality of the proceedings in accordance with University Policy.

If, at any point in the Resolution Process, one of the previously stated bases for dismissal is raised, dismissal may occur that decision is appealable. And, if the evidence indicates that an incident is more appropriately addressed by another University policy, the Equity/Title IX Coordinator may refer the matter to the appropriate office (e.g., Student Affairs, Human Resources) for further action.

INVESTIGATIONS

The University is committed to providing investigations that are adequate, prompt, thorough, reliable, impartial, and fair. They involve interviews of all relevant parties and witnesses, to the extent that they are willing to cooperate in this process, obtaining relevant and available evidence, and identifying sources of expert information, as necessary.

The University is responsible for the burden of gathering evidence sufficient to reach a determination regarding responsibility. Neither party is responsible for gathering evidence. As noted, respondents are presumed not responsible, unless and until a finding of responsibility has been made at the conclusion of the Formal Resolution Process.

Appointment of Investigator

Once an investigation is initiated, the Equity/Title IX Coordinator may serve as investigator or may appoint a qualified individual to conduct the investigation. These Investigators may be members of the Equity Resolution Pool, or any other properly trained Investigator, whether internal or external to the University's community

Interview Recording

All interviews will be recorded. It is standard practice for investigators to create a record of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). Parties may review copies of their own interview, upon request. No unauthorized audio or video recording of any kind is permitted during investigations meetings or interviews. If an investigator chooses to audio and/or video record interviews, all involved parties should be made aware of the recording.

Parties and witnesses may be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If Parties and witnesses do not respond within the allotted time period, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

Investigation Timeline

The University aims to complete all investigations promptly, within a reasonable time. However, depending on the nature, extent, and complexity of the allegations; availability of witnesses; or police involvement, this time period may be extended for good cause by the Equity/Title IX Coordinator, with notice of any revised timelines to be provided to both parties. As noted, stated timelines are not binding and create no rights for the parties. The University can extend the deadlines at its discretion.

Law Enforcement Involvement/Parallel Proceeding

The University process for investigating and adjudicating a Formal Complaint will not be precluded because civil or criminal charges involving the same incident have been filed, except where such efforts are limited by court order or otherwise by law. The University may agree to a short delay to allow evidence collection when criminal charges based on the same facts or events are being investigated by the University or local law enforcement.

Investigative Report

Upon completing the investigation, the Investigator will provide draft investigative report (“Draft Report”) that fairly summarizes the evidence, along with an equal opportunity to access the relevant and not otherwise impermissible evidence, upon the request of the party. Within the Draft Report, the Investigator will describe the relevant information and summarize all interviews. The Investigator will not offer any recommendations as to whether a violation of the Policy occurred.

The Investigator will provide a copy of the Draft Report to the Complainant and the Respondent. Each may submit a written response to the Investigator within ten (10) Days after receiving the Draft Report or waive their right to do so. The Investigator will review and consider any written responses provided by the Complainant and the Respondent.

After considering the parties’ written responses, the Investigator may determine that additional investigation must be conducted. If the Investigator revises the Draft Report, the Investigator must then provide the revised Draft Report to the Complainant and the Respondent for their review and written response to the changed portions.

The Complainant and the Respondent will have another ten (10) Days after receiving the revised Draft Report to submit a written response to the Investigator or waive their right to do so. The Investigator will again review and consider any written responses provided by the Complainant and the Respondent to the revised Draft Report.

Once the investigation is complete, the Investigator will finalize the investigative report (“Report of Investigation”). Complainants and Respondents are not permitted to share the Draft Report, revised Draft Report, or Report of Investigation with any individual(s) other than their Advisor.

PARTICIPATION IN THE INVESTIGATION & RESOLUTION PROCESS

Employees (not including Complainant and Respondent) are required to cooperate with and participate in the University's investigation and Resolution Process.

Student witnesses and witnesses from outside the University community cannot be required to participate but are encouraged to cooperate with University investigations and to share what they know about a Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx, etc.), or, in limited circumstances, by telephone. The University will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

No person will be subject to Retaliation for participating or not participating in the process. The University and the hearing decisionmaker will not draw any inference from a party's or witness's decision not to participate. If any party does not appear at a scheduled hearing, the hearing will be held in that party's absence.

INFORMAL RESOLUTION PROCESS

Before, during, or after an investigation, an Informal Resolution is an option that may be provided at the discretion of the University given consideration of all circumstances. A Complainant, Respondent, or both, may make such a request at any time prior to determination or the Equity/Title IX Coordinator may offer the option to the Parties in writing. The Equity/Title IX Coordinator will obtain voluntary, written confirmation that all Parties wish to resolve the matter through the Informal Resolution Process before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, the University will provide the Parties with a NOIA that explains:

1. The allegations;
2. The requirements of the Informal Resolution process;
3. That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume the University's Resolution Process;

4. That the Parties' agreement to a resolution at the conclusion of the Informal Resolution process will preclude the Parties from initiating or resuming the resolution process arising from the same allegations;
5. The potential terms that may be requested or offered in an Informal Resolution agreement, including notification that an Informal Resolution agreement is binding only on the Parties; and
6. What information the University will maintain, and whether and how it could disclose such information for use in its Resolution Process.

The informal resolution will be administered by a trained Informal Resolution Process Facilitator, who will not be the Investigator, Decisionmaker, or the Appeal Officer. The facilitator will be an independent employee appointed by the Equity/Title IX Coordinator.

Together or separately, the parties and the Informal Resolution Process facilitator, who will create a written Informal Resolution agreement that may include resolutions such as, but not limited to, mediation or other facilitated dialogue (e.g. facilitated written communication or shuttle mediation); letters of apology; agreement to ongoing restrictions on contact/communication, or access to facilities, programs, or activities; and/or individual and/or community education related to the underlying conduct at issue; remedies or disciplinary sanctions that would have been imposed had the University found that discrimination had occurred.

The goal of Informal Resolution is repairing the harm(s) alleged by the Complainant, and also ensuring that the discrimination does not continue or recur within the University's education program or activity.

If an investigation is underway, the Equity/Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited or if it will continue during the Informal Resolution process.

A failure by either party to abide by their accord may result in appropriate responsive action by the Equity/Title IX Coordinator. An investigation can commence or continue during

FORMAL RESOLUTION PROCESS

If the complaint has not been dismissed and the informal resolution option was not available or selected, once the investigation is complete, then the case proceeds to the Formal Resolution Process (Admission or Live Hearing).

Resolution Without A Hearing

At any point after receiving the Notice of Allegations, if Respondent elects to admit to the allegations and waive further process, the Equity/Title IX Coordinator or Decisionmaker is authorized to accept that admission, adopt it as their finding/final determination, and

administer sanctions. This would also waive all rights to appeal for the Respondent.

If the Respondent does not admit to all allegations or admits to part of the allegation, then the resolution process will continue to its conclusion on the allegations that are in dispute.

Resolution With Live Hearing

For any Formal Complaints not dismissed or resolved through Informal Resolution or an admission of responsibility, the Title IX Coordinator will initiate a Hearing at the conclusion of the investigation and submission of the Report of Investigation to the Hearing Panel.

LIVE HEARING REQUIREMENTS

Hearing Panel

The Equity/Title IX Coordinator, in its discretion, appoint a hearing decision maker for all live hearings. This will be a three-member hearing panel, which will review the Investigation File, conduct a hearing, and determine whether it was more likely than not that the Respondent violated the Policy

Hearing Venue & Recordings

All hearings will be held occur via video technology (WebEx, Zoom, Microsoft Teams). The Decisionmaker and Parties must be able to simultaneously see and hear all parties or witnesses while that person is speaking. This option is considered fair and equitable. At the Equity/Title IX Coordinator's discretion, a hearing may be held in-person.

- The Parties may make a request that the hearing occur in-person, but they must do so at least seven (7) business days prior to the hearing. The Equity/Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
- All hearings will be recorded, and Parties may request a copy of the recording from the Equity/Title IX Coordinator following the live hearing.
- No unauthorized recordings are permitted.

Hearing Participants

Hearing participants will include the Chair, the two members of the Hearing Panel, the Investigator(s) who conducted the investigation of the Formal Complaint, the Parties and their advisors, Witnesses, only during their testimony, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Equity/Title IX Coordinator or the Decision-maker.

Advisors.

The Parties may have the assistance of an Advisor of their choosing at the hearing or can request that the University appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves. [If a party decides not to have an Advisor, they will forfeit the option of asking questions at the hearing].²

- During the live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Equity/Title IX Coordinator, with each party being provided the same opportunity.
 - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing as the video technology in a matter consistent with Policy.
 - During the hearing, all questions that a party wishes to ask must be posed by the Advisor, not the Parties.
 - If the party does not have an Advisor, the Equity/Title IX Coordinator will provide the party with an Advisor for the purpose of Advisor-conducted questioning.
 - All advisors are to follow the rules of decorum, any violation, and the Decisionmaker may request that the Advisor leave or be replaced.
- **Disability Accommodations and Other Assistance.**
Parties should contact the Equity/Title IX Coordinator at least ten (10) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
 - **Conflicts of Interest or Bias.**
The Decisionmaker must not have a bias for or against complainants or respondents generally or the individual Complainant or Respondent in particular. The Decision-maker must recuse themselves if such bias or conflict of interest exists.
 - If the Decision-maker believes there is possible conflict of interest or bias, they will consult with the Equity/Title IX Coordinator about possible recusal or removal.

² Applies only if using an Advisor-led questioning model.

- The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Equity/Title IX Coordinator within two (2) business days of receiving the hearing notice.
 - The Equity/Title IX Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
 - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Equity/Title IX Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decisionmaker and Parties.**
 - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least five (5) business days in advance of the hearing.
 - The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice unless those materials have already been provided.³

Hearing Notice

The Equity/Title IX Coordinator will send the Parties a Notice of Hearing with sufficient time for the Parties to prepare for the hearing, typically at least seven (7) business days prior to the hearing. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The hearing notice includes:

- The time, date, and location of the hearing.
- A description of any technology that will be used to facilitate the hearing.
- Relevant information regarding hearing logistics, the Final Investigation Report, the Parties, and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance.

WITNESS PARTICIPATION

Student witnesses are encouraged to participate in, and make themselves reasonably available

³ Hard-copy materials may be provided upon request to the Equity/Title IX Coordinator. The Final Investigation Report and relevant evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

for, the hearing. **Employee witnesses are expected to participate in, and make themselves reasonably available for, the hearing.**

Witnesses may participate in-person or via video technology that allows the Decisionmaker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an advisor without express permission of the Equity/Title IX Coordinator. At the discretion of the Decision-maker, a witness may join by phone if no other reasonable alternative is available.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Equity/Title IX Coordinator may reschedule the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet the University's resolution timeline and ensure a prompt resolution. **Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Resolution Processes that occur during months between contracts.**

The Equity/Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s).

HEARING PROCEDURES

Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completing the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant and not impermissible, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant or impermissible, the Decision-maker may proceed with the hearing absent the new evidence.

Collateral Misconduct

The Decision-maker has the authority to hear and make determinations on all allegations of discrimination, harassment, retaliation, and Other Prohibited Behavior under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that

occurred in concert with the discrimination, harassment, retaliation, or Other Prohibited Behavior, even though those collateral allegations may not specifically fall within the Policy.

Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Equity/Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Complaint with respect to each alleged Policy violation.

Introductions and Hearing Procedure Explanation

The Decision-maker will explain the hearing procedures and introduce the participants. The Decision-maker will answer any procedural questions prior to and as they arise throughout the hearing.

Investigator Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then by the Parties through their Advisors.

All questions must be directed toward and asked through the Decision-maker and are subject to a relevance determination before they are asked. The Decision-maker will determine the method by which the Parties will submit their questions to the Decision-maker for their review and, if approved, to be posed. Questions that the Parties wish to have posed can be questions for that party themselves, another party, or witnesses.

The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive. The Decision-maker has final say on all questions and determinations of relevance and appropriateness. The Decision-maker may consult with legal counsel on any questions of admissibility.

The Decision-maker then poses the questions deemed relevant, not impermissible, and appropriate to the party and/or witness.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, refer them to the Equity/Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

The Decision-maker will allow witnesses who have relevant and not impermissible information to appear at a portion of the hearing to respond to specific questions from the Decision-maker and the Parties, and the witnesses will then be excused.

Refusal to Submit to Questioning and Inferences

Students

Any party or student witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning.

Employees

Employee witnesses are required to participate in the hearing if they are reasonably available. The Decision-maker can only rely on the available relevant and not impermissible evidence in making the ultimate determination of responsibility.

The Decision-maker may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

HEARING RECORDINGS

The University records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate University officials will be permitted to review the recording or review a transcript of the recording upon request to the Equity/Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

HEARING DECISION AND NOTICE OF OUTCOME

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the preponderance of the evidence standard. If a panel is used, a simple majority vote is required to determine the finding. Deliberations are not recorded.

The Decision-maker will then prepare and provide the Equity/Title IX Coordinator with a written outcome letter detailing the following

- Determinations on each alleged violation
- Findings of fact,
- the rationale(s) explaining the decision(s),
- the relevant and not impermissible evidence used in support of the determination(s),
- the evidence not relied upon in the determination(s),
- any credibility assessments, and
- any sanction(s) and rationales explaining the sanction(s)
- Information about the appeal process

This statement is typically submitted to the Equity/Title IX Coordinator within fifteen (15) business days from the conclusion of the hearing unless the Equity/Title IX Coordinator grants an extension. The Equity/Title IX Coordinator will notify the Parties of any extension.

SANCTIONS

Factors the Hearing Panel may consider when determining Sanctions and responsive actions may include, but are not limited to:

The nature, severity of, and circumstances surrounding the violation.

The Respondent's disciplinary history.

Previous complaints or allegations involving similar conduct.

Any other information deemed relevant by the Hearing Panel.

The need for sanctions/responsive actions to bring an end to the Prohibited Conduct.

The need for sanctions/responsive actions to prevent the future recurrence of

Prohibited Conduct.

The need to sanctions/responsive actions prevent the future recurrence of Prohibited Conduct.

The need to remedy the effects of the Prohibited Conduct on the victim and the community.

Sanctions will be implemented as soon as it is feasible once a determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

Student Sanctions

The following are the usual, but not the exclusive, Sanctions that may be imposed upon students or student organizations, singly or in combination:

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.

Probation: A written reprimand for violation of the 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 specified and may include denial of specified social privileges, exclusion from co-curricular activities, no-contact orders, and/or other measures deemed appropriate.

Suspension: Termination of student status for a definite period of time, not to exceed three (3) years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at the University. This sanction may be noted as a Conduct Suspension on the student's official transcript.

Expulsion: Permanent termination of student status, revocation of rights to be on campus for any reason or attend any University-sponsored events while the Complainant is still enrolled or employed at the University, if Respondent was found responsible of any sexual, domestic, or dating violence offenses. This sanction will be noted as a Conduct Expulsion on the student's official transcript.

Withholding Diploma: The University may withhold a student's diploma for a specified period and/or deny a student participation in commencement activities if the student has a Formal Complaint pending or as a Sanction if the student is found responsible for an alleged violation.

Organizational Sanctions: Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.

Other Actions: In addition to or in place of the above Sanctions, the University may assign any other Sanctions as deemed appropriate.

Employee Sanctions

Sanctions for an employee who has violated this Policy include, but are not limited to, a warning, required counseling, demotion, suspension with pay, suspension without pay, termination, and/or any other Sanctions as deemed appropriate, including. Sanctions for violations of the Policy are in all ways separate and apart from other Sanctions under the various union collective bargaining agreements.

APPEALS

All requests for appeal must be submitted by any party in writing to the Title IX Coordinator within five (5) Days of receiving the Notice of Outcome. Requests must state the explicit grounds for the appeal, which must be based on one or more of the following:

- A procedural error or omission occurred that impacted the outcome of the hearing.
- Newly discovered evidence, unknown or unavailable during the original hearing or investigation, which could affect the outcome. A summary of this new evidence and its potential impact must be included.
- Hearing Panel members, Chair, or Investigator had a conflict of interest or bias that affected the outcome.
- The sanctions imposed are substantially disproportionate to the severity of the violation.

After an appeal has been submitted by a Complainant and/or Respondent, the Office of Equity & Title IX will review the document to ensure that it follows the established policies and procedures. The Office of Equity & Title IX will provide the other party a copy of the appeal, so that the person can, if they choose to do so, submit, within five (5) Days of receiving a copy of the appeal, a written response. The response must respond to the specific ground(s) for appeal raised. The Equity/Title IX Coordinator will provide the appealing party a copy of the response, but no further submissions are permitted.

The Equity/Title IX Coordinator will appoint one Appeals Officer, at its discretion from an internal or external source to review the appeal. No one appointed can have been involved in any aspect of the Formal Complaint previously.

The Appeal Officer will review the appeal request(s). The original finding and Sanction will stand if the appeal is not timely or is not based on at least one of the grounds listed above, and such a decision is final.

Decisions by the Appeal Officer are to be deferential to the original decision, making changes to the finding only where there is a compelling justification to do so. Appeals are not intended to be full re-hearings of the Formal Complaint. Appeals are confined to a review of the written record and the recording of the original hearing. The Appeal Officer will decide whether to

approve, reject, or modify the finding and/or Sanction, or to remand the case to the original Hearing Panel for clarification or a completely new hearing panel for a new case, as appropriate. Appeals granted based on new evidence should normally be remanded to the original Hearing Panel for reconsideration.

The Appeals Panel will render a written decision within a reasonable time period, which the Equity/Title IX Coordinator will provide to the parties simultaneously. Once an appeal is decided, the outcome is final and binding on all parties. Further appeals are not permitted.

SUPPORTIVE MEASURES

The University will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the University's education program or activity or provide support during the University's Resolution Procedures or during the informal resolution process. For complaints of sex-based harassment, these actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Extension of deadlines, academic support, or other course related adjustments
- Providing campus safety escorts
- Campus Escort Service
- Increased Security and Monitoring Certain Areas of Campus
- Restrictions on Contact applied to one or more parties
- Class schedule modification, withdrawals, and leaves of absence
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative
- Training and education programs related to sex-based harassment
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

TRAINING

Equity Resolution Pool ("ERP")

The Formal Hearing Resolution Process relies on a team of University employees (faculty and staff) who are trained annually on the Policy and can serve in the following roles, at the discretion of the Equity/Title IX Coordinator:

- Advisor to Parties

- Informal Resolution Facilitator
- Hearing Facilitator
- Decisionmaker for challenges to emergency removal and supportive measures
- Decisionmaker for live formal hearings of discrimination
- Appeal Officer

The Equity/Title IX Coordinator, in consultation with senior Equity/Title IX Coordinators as necessary, appoints the members of the ERP, which acts with independence and impartiality. Despite having the ERP, the Equity/Title IX Coordinator may use trained external individuals for all the roles of the ERP.

CONFLICT OF INTEREST/ BIAS

Under this Policy, The Equity/Title IX Coordinator and any individuals serving as Investigators, decision-makers, or facilitators of Informal Resolution Processes will be free of conflicts of interest and/or bias, for or against Complainants or Respondents generally, or a party specifically. The parties may at any time raise a concern regarding bias or conflict of interest and the Title IX Coordinator will determine whether the concern is justified. If it is determined that such bias or conflict of interest exists, the individual(s) at issue will be replaced. Additional remedial steps may be taken as appropriate. Concerns about bias or conflict of interest involving the Title IX Coordinator should be reported to Office of General Counsel at legalaffairs@desu.edu.

FAILURE TO COMPLY WITH SANCTIONS, RESPONSIVE ACTIONS, AND/OR INFORMAL RESOLUTION TERMS

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker(s), including the Appeal Panel or Decision-maker or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University.

Supervisors are expected to enforce the completion of sanctions/responsive actions for their employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Administrator's satisfaction.

DISABILITY ACCOMMODATIONS

University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University's Resolution Process.

Anyone needing such accommodations or support should contact the Administrator, who will work with disability support colleagues as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

OTHER SUPPORT

University will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the Resolution Process

RECORDS AND CONTINUED PRIVACY

In implementing this Policy, records of all reports, Formal Complaints, resolutions, and hearings will be kept by the Title IX Coordinator for seven (7) years. Those records will be kept private, and the information contained therein revealed only when required or permitted by law.

REVISION

Any dates of revisions will be noted in this section of the Policy. The Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. This Policy is subject to change at any time. Notice of any changes will be posted to the Delaware State University website, with the appropriate effective date identified. Generally, the Policy in effect at the time of an alleged offense and the procedures in effect at the time of a Formal Complaint will apply. If different, although any decisions about the application of the Policy and procedures which have changed over time will be made in the discretion of the Coordinator and are not appealable.

APPENDIX A: DEFINITIONS

The following definitions apply to the Nondiscrimination and Title IX Policies and Procedures:

- **Advisor.** Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **Administrator.** The person with primary responsibility for overseeing and enforcing the <<Nondiscrimination Policy and Procedures>>. As used in these policies and procedures, the “Administrator” also includes their designee(s).
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and directs responsive action(s), accordingly.
- **Complainant.** A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment or under the Policy and who was participating or attempting to participate in the University’s education program or activity at the time of the alleged discrimination, harassment or retaliation.
- **Complaint.** An oral or written request to the University that can objectively be understood as a request for the University to investigate and make a determination about the alleged Policy violation(s).
- **Confidential Employee.**
 - An employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
 - An employee whom the University has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, or retaliation. If the employee also has a duty not associated with providing those services, the employee’s confidential status only applies with respect to information received about discrimination, harassment, or retaliation in connection with providing those services; or
 - An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, or retaliation. The employee’s confidential status only applies with respect to information received while conducting the study.
- **Day.** A business day when the University is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.

- **Decision-maker.** The person or panel who hears evidence, determines relevance, and makes the Final Determination of whether Policy has been violated and/or assigns sanctions.
- **Education Program or Activity.** Locations, events, or circumstances where the University exercises substantial control over the context in which the discrimination, harassment, and/or retaliation occurs and also includes any building owned or controlled by a student organization that the University officially recognizes.
- **Employee.** A person employed by University either full- or part-time, including student employees when acting within the scope of their employment.
- **Final Determination.** A conclusion by the standard of proof that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the standard of proof that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Administrator that occurs prior to a Final Determination in the Resolution Process.
- **Investigation Report.** The Investigator’s summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by University to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When University receives Notice of conduct that reasonably may constitute harassment, discrimination, or retaliation in its Education Program or Activity.
- **Mandated Reporter.** A University employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, and/or retaliation with the Equity/Title IX Coordinator and/or Delaware State University Police Department.⁴
- **Nondiscrimination Team.** The Administrator, any deputy coordinators, and any member of the Resolution Process Pool.
- **Notice.** When an employee, student, or third party informs the Administrator of the alleged occurrence of discriminatory, harassing, and/or retaliatory conduct.
- **Parties.** The Complainant(s) and Respondent(s), collectively.

⁴ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

- ***Pregnancy or Related Conditions.*** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- ***Protected Characteristic.*** Any characteristic for which a person is afforded protection against discrimination and harassment by law or University Policy.
- ***Relevant Evidence.*** Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, or retaliation occurred, or in determining the credibility of the Parties or witnesses.
- ***Remedies.*** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to the University's Education Program and Activity.
- ***Resolution Process.*** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Administrative Resolution, and/or Hearing Resolution.
- ***Respondent.*** A person who is alleged to have engaged in conduct that could constitute discrimination based on a protected characteristic, harassment, or retaliation for engaging in a protected activity under this Policy.
- ***Sanction.*** A consequence imposed on a Respondent who is found to have violated this, Policy.
- ***Sex.*** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- ***Student.*** Any person who has gained admission.
- ***Title IX Coordinator.*** At least one official designated by the University to ensure ultimate oversight of compliance with Title IX and the University's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.