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Equal Opportunity, Harassment, and Nondiscrimination Policy - Interim

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UNIVERSITY OF
**HEALTH SCIENCES
& PHARMACY**
in St. Louis

**EQUAL OPPORTUNITY,
HARASSMENT, AND
NONDISCRIMINATION POLICY -
Interim**
Human Resources

Policy Timeline

Initial Effective Date: 8/1/2024

Frequency of Review:

☐ Semiannually (twice per year)

☒ Annually

☐ Biennially (every two years)

☐ Other: _____

Date(s) Revised:

Policy Overview

University of Health Sciences and Pharmacy in St. Louis (UHSP) adheres to all federal, state, and local civil rights laws prohibiting discrimination and harassment in employment and education. UHSP does not discriminate in its admissions practices, employment practices, or educational programs or activities on the basis of age, color, disability, ethnicity, race, sex, genetic information, national origin, pregnancy or related conditions, religion, military status or other protected class. As a recipient of federal financial assistance for education activities, UHSP is required by Title IX of the Education Amendments of 1972 (Title IX) to ensure that all of its education programs and activities do not discriminate on the basis of sex. Sex includes sex, sex stereotypes, sex characteristics, gender identity, sexual orientation, and pregnancy or related conditions. Discrimination and harassment on the basis of these covered protected classes is prohibited under UHSP Policy, including sex-based harassment, sexual assault, dating and domestic violence, stalking, quid pro quo harassment, hostile environment harassment, disparate treatment, and disparate impact.

UHSP also prohibits retaliation against any person opposing discrimination or harassment or participating in any internal or external investigation or complaint process related to allegations of discrimination or harassment under the policy.

Any person may report discrimination (whether the person reporting is alleged to have experienced the conduct) in person, by mail, by telephone, by video, or by email, using the contact information listed in the policy.

Questions regarding Title IX, including its application and/or concerns about noncompliance, should be directed to the EEO/504/ADA/Title IX Coordinator.

Applies to: (examples—Faculty, Staff, Students, etc.)

Faculty, staff, students, others

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Definitions: (optional; suggested for terms that have specialized meaning in the policy)

<u>Term</u>	<u>Definition</u>
Advisor	In cases involving sex-harassment complaints with students as parties, Advisors are allowed. Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings, the Resolution Process and advise the party on that process.
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.
Clery Act	Requires colleges and universities to report campus crime data, support victims of violence, and publicly outline the policies and procedures they have put into place to improve campus safety.
Complainant	A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or Other Prohibited Conduct 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 Recipient's education program or activity at the time of the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct.
Complaint	An oral or written request to UHSP that can objectively be understood as a request for UHSP to investigate and make a determination about the alleged Policy violation(s).
Confidential Employee	<ul style="list-style-type: none"> • 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 Recipient has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, retaliation, or Other Prohibited Conduct. 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, retaliation, or Other Prohibited Conduct in connection with providing those services; or <p>An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about discrimination, harassment, retaliation, or Other Prohibited Conduct. The employee's confidential status only applies with respect to information received while conducting the study.</p>

Coordinator	The person with primary responsibility for overseeing and enforcing the Equal Employment, Harassment and Nondiscrimination policy. As used in these policies and procedures, the “Coordinator” also Deputy Coordinator, or includes their designee(s).
Day	A business day when UHSP 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 Recipient exercises substantial control over the context in which the discrimination, harassment, retaliation, and/or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that the Recipient officially recognizes.
Employee	A person employed by UHSP 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 EEO/504/ADA/Title IX Coordinator 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 UHSP 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 UHSP receives Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
Mandated Reporter	A UHSP employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, retaliation, and/or Other Prohibited Conduct with the appropriate Coordinator. ¹²
Nondiscrimination Team	The EEO/504/ADA/Title IX Coordinator(s), any deputy coordinators, and any member of the Resolution Process Pool

¹ 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.

² The Coordinator designated to receive information from Mandated Reporters may vary depending upon the type of alleged discrimination, harassment, or retaliation (e.g., on the basis of sex, on the basis of race, on the basis of disability).

Notice	When an employee, student, or third party informs the Coordinator of the alleged occurrence of discriminatory, harassing, retaliatory, and/or Other Prohibited Conduct.
Parties	The Complainant(s) and Respondent(s), collectively.
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 UHSP Policy.
Relevant Evidence	Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct 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 UHSP's Education Program and Activity.
Resolution Process	The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, or Administrative Resolution Process.
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, or Other Prohibited Conduct.
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 UHSP to ensure ultimate oversight of compliance with Title IX and UHSP's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.

Policy Details

Policy on Equal Opportunity, Harassment and Nondiscrimination

1. Purpose

University of Health Sciences and Pharmacy in St. Louis (UHSP) is committed to providing an educational and employment environment that is free from discrimination based on protected characteristics, harassment, and retaliation for engaging in protected activity.

UHSP values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a challenging time for all involved.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, UHSP has developed policies and procedures that provide for prompt, fair, and impartial resolution of allegations of protected characteristic discrimination, harassment, or allegations of retaliation.

2. Notice of Nondiscrimination

UHSP seeks to comply with all federal, state, and local laws, regulations, and ordinances prohibiting discrimination in private post-secondary education institutions.

UHSP does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived:

- Age (40 years and over in the employment context)
- Citizenship status
- Color
- Disability (physical or mental)
- Ethnicity
- Gender expression
- Gender identity
- Genetic information (including family medical history)
- National origin (including ancestry)
- Pregnancy or related conditions
- Race
- Religion
- Sex, including sexual orientation
- Veteran or military status (including disabled veteran, recently separated veteran, active-duty, wartime, or campaign badge veteran, and Armed Forces Service Medal veteran)
- or any other protected characteristic under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process within the institution, with the Equal Employment Opportunity Commission, and/or other human/civil rights agency.

This Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of UHSP community whose acts deny, deprive, unreasonably interfere with, or limit the education or employment, residential and/or social access, benefits, and/or opportunities of

any member of UHSP community, guest, or visitor based on that person's actual or perceived protected characteristic(s), is in violation of this Policy.

UHSP will promptly and effectively address any such discrimination of which it has Knowledge/Notice using the resolution process in the Equal Opportunity, Harassment and Nondiscrimination Procedures.

3. Nondiscrimination Team Contacts

UHSP has employees in positions that support our EEO, Section 504/ADA and Title IX compliance and processes. These employees may serve in multiple categories (EEO and Title IX for example) or may be designated as a Deputy Coordinator for a specific group (such as students or employees). The Policy refers to this collective group as the Nondiscrimination Team. In the Policy, the terms EEO/504/ADA/Title IX Coordinator refers to whichever Coordinator or Deputy is more applicable. At times this is called the "appropriate coordinator" or simply "Coordinator" when it is clear which applies (EEO/504/ADA/Title IX).

UHSP policies and practices outline other officials at the University who are responsible for different aspects of the policy, supportive measures, and the administrative resolution process. A list of those individuals and members of the Nondiscrimination Team is maintained as Appendix B.

The Nondiscrimination Team is comprised of the following individual(s), to coordinate UHSP's compliance with federal, state, and local civil rights laws and ordinances:

For discrimination and harassment allegations [not based on sex]:

EEO and Section 504/ADA Coordinator

Daniel Bauer
Assistant Vice President, Human Resources
South Residence Hall, Room 1240C
314-446-8308
Daniel.Bauer@uhsp.edu

EEO and Section 504/ADA Deputy Coordinator for Students

Rebecca Jones
Assistant Vice President, Student Success and Wellness
Recreation and Student Center (RAS), Room 410
314-446-8352
Rebecca.Jones@uhsp.edu

EEO and Section 504/ADA Deputy Coordinator for Employees

Erica Whitted
Associate Director, Human Resources
South Residence Hall, Room 1240A
314-446-8315
Erica.Whitted@uhsp.edu

For sex discrimination and sex-based harassment allegations:

Title IX Coordinator

Daniel Bauer
Assistant Vice President, Human Resources
South Residence Hall, Room 1240C
314-446-8308
Daniel.Bauer@uhsp.edu

Title IX Deputy Coordinator for Students

Rebecca Jones
Assistant Vice President, Student Success and Wellness
Recreation and Student Center (RAS), Room 410
314-446-8352
Rebecca.Jones@uhsp.edu

Title IX Deputy Deputy Coordinator for Employees

Erica Whitted
Associate Director, Human Resources
South Residence Hall, Room 1240A
314-446-8315
Erica.Whitted@uhsp.edu

Collectively, these individuals are responsible for providing comprehensive nondiscrimination education and training; coordinating UHSP's timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct under this Policy; and monitoring the effectiveness of this Policy and related procedures to ensure an education and employment environment free from discrimination, harassment, and retaliation.

UHSP recognizes that allegations under this Policy may include multiple forms of discrimination and harassment as well as violations of other UHSP policies; may involve various combinations of students, employees, and other members of UHSP community; and may require the simultaneous attention of multiple UHSP departments. Accordingly, all UHSP departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable UHSP policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination, harassment, or retaliation.

The Chief EEO/504/ADA/ Title IX Administrator serves as principal Administrator for this entire policy. This Administrator is responsible for coordination between members of the Nondiscrimination Team and other offices, as necessary.

Chief EEO/504/ADA/ Title IX Administrator

Daniel Bauer
Assistant Vice President, Human Resources
South Residence Hall, Room 1240C
314-446-8308

Daniel.Bauer@uhsp.edu

4. External Contact Information

Concerns about UHSP's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

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

For Complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#) (EEOC) or Missouri Human Rights Commission

National Institutes of Health (NIH) grant recipient organizations and principal investigators are expected to have policies and practices in place that foster an environment free from harassment, including sexual harassment, discrimination, and other forms of inappropriate

conduct that can result in a hostile work environment. UHSP has [systems, policies, and procedures](#) in place to manage research activities in accordance with our standards and requirements.

- UHSP complies with federal laws, regulations, and policies protecting the rights and safety of individuals working on NIH-funded projects
- UHSP will notify NIH when individuals identified as PD/PI or other Senior/Key personnel in an NIH notice of award are removed from their position or are otherwise disciplined by the recipient institution due to concerns about harassment, bullying, retaliation or hostile working conditions.
- While UHSP maintains process to address allegations of harassments covered by NIH grants. The NIH also has its own process for directly handling allegations of harassment on an NIH-Funded Project at a Recipient Institution. Allegations may be submitted to NIH via:
 - [Grantee Harassment Webform](#)
(<https://public.era.nih.gov/shape/public/index.era>)
 - Grantee Harassment Email GranteeHarassment@nih.gov
 - Phone (301) 480-6701
 - NIH Staff (e.g., Center for Scientific Review (CSR) staff, IC Research Integrity Officers (RIOs), Office of Management Assessment (OMA) referrals)

5. Mandated Reporting and Confidential Employees

a. Mandated Reporters - Employees

All UHSP faculty and employees (including student-employees), other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected discrimination or harassment, retaliation, and/or other prohibited conduct to appropriate officials immediately, although there are some limited exceptions. Supportive measures may be offered as the result of such disclosures without formal UHSP action.

Complainants may want to carefully consider whether they share personally identifiable details with Mandated Reporters, as those details (such as names of parties, dates, times, locations, description of conduct) must be shared by the Mandated Reporter in writing with a Coordinator. Some pieces of information may also need to be shared with individuals who need to know in order to perform their job duties.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these employees will immediately pass Notice to a Coordinator (and/or police, if

desired by the Complainant or required by law), who will act when an incident is reported to them.

Failure of a Mandated Reporter, as described above in this section, to report an incident of discrimination, harassment, or retaliation of which they become aware is a violation of UHSP Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Mandated Reporter. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

A Mandated Reporter who is themselves a target of discrimination, harassment or other prohibited conduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

The following sections describe UHSP's reporting options for a Complainant or third party (including parents/guardians when appropriate):

b. Confidential Employees

To enable Complainants to access support and resources without filing a Complaint, UHSP has designated specific employees as Confidential Resources. Those designated by UHSP as Confidential Resources are not required to report actual or suspected discrimination, harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with a Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or UHSP official unless a Complainant has requested the information be shared.

There are three categories of Confidential Employees: 1) Those with confidentiality bestowed by law or professional ethics, such as lawyers, medical professionals, clergy, and mental health counselors; 2) Those whom UHSP has specifically designated as confidential resources for purposes of providing support and resources to the Complainant; and 3) Those conducting human subjects research as part of a study approved by UHSP's Institutional Review Board (IRB). For those in category 1), above, to be able to respect confidentiality, they must be in a confidential relationship with the person reporting, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor, elder, or individual with a disability, or when required to disclose by law or court order.

To enable Complainants to access support and resources without filing a Complaint, the Recipient has designated specific employees as Confidential Resources. Those designated by Recipient as Confidential Resources are not required to report actual or suspected discrimination, harassment, or retaliation in a way that identifies the Parties. They will, however, provide the Complainant with the Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or Recipient official unless a Complainant has requested the information be shared.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following Confidential Employees:

Confidential Employees for Students

- On-campus licensed professional counselors in the campus counseling center
- On-campus spiritual advisors affiliated with UHSP's spirituality center who have religious privilege that applies to them under Missouri statute.

Confidential Employees for Employees

- Employee Assistance Program (EAP) counselors

Institutional counselors (and/or the Employee Assistance Program) are available to help free of charge and may be consulted on an emergency basis during normal business hours. Some limited counseling services may also be available outside of normal business hours.

Employees who have confidentiality as described above, and who receive Notice within the scope of their confidential roles, will timely submit anonymous statistical information for Clery Act statistical reporting purposes unless they believe it would be harmful to their client.

c. Other Confidential Reporters

In addition, Complainants may speak with individuals unaffiliated with UHSP without concern that Policy will require them to disclose information to the institution without permission:

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains who have religious privilege that applies to them under Missouri statute.
- Attorneys

6. Grievances about Disability Accommodations

Grievances from students related to recognition of educational disability status and/or approval/denial or problems with application of educational ADA accommodations through the Disability Support Program office are addressed using the procedures in the [Disability Support Program handbook and policies](#). ADA policies for faculty and staff address approval/denial of workplace ADA accommodations.

Allegations of discrimination on the basis of an actual or perceived disability, including instances in which the provision of reasonable accommodations has a discriminatory effect, will be resolved under this policy.

7. Scope

This Policy is only applicable to alleged incidents that occur on or after August 1, 2024.

For alleged incidents of discrimination and harassment that occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. UHSP's applicable policies and procedures related to sexual harassment in an educational program or activity Title IX can be found [here](#). UHSP's policy against discrimination, harassment, sexual assault and relationship violence can be found [here](#).

This Policy applies to all faculty, employees, guests/visitors, students, and other individuals participating in or attempting to participate in UHSP's program or activities, including education and employment.

This Policy prohibits all forms of discrimination on the basis of the protected characteristic(s) listed in Section 2, Notice of Nondiscrimination. The resolution process may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this Policy.

8. Jurisdiction

This Policy applies to UHSP's education programs and activities (defined as including locations, events, or circumstances in which UHSP exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where UHSP has disciplinary authority, and to misconduct occurring within any building owned or controlled by a UHSP-recognized student organization. A Complainant does not have to be a member of UHSP community to file a Complaint, at the discretion of the Coordinator.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to UHSP's education program or activities. UHSP may also extend jurisdiction to off-campus and/or to online conduct when the conduct affects a substantial UHSP interest.

A substantial UHSP interest includes:

- 1) Any action that would constitute a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- 2) Any situation in which it is determined that the Respondent poses an imminent and serious threat to the health or safety of any student, employee, or other individual.
- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- 4) Any situation that interferes with UHSP's educational interests or mission.

For disciplinary action to be issued under this Policy, the Respondent must be a UHSP faculty member, student, or employee at the time of the alleged incident. If the Respondent is unknown or is not a member of UHSP community, the Coordinator will offer to assist the Complainant in identifying appropriate institutional and local resources and support options and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). UHSP can also

assist in contacting local or institutional law enforcement if the individual would like to file a police report about criminal conduct.

All vendors serving UHSP through third-party contracts are subject to the policies and procedures of their employers and are expected to abide by the standards of conduct set forth in this Policy while on campus or providing services to the University.

When a party is participating in a dual enrollment program, the University will coordinate with the party's home institution to determine jurisdiction and coordinate providing supportive measures and responding to the complaint under the appropriate policy and procedures based on the allegations and identities of the Parties.

When the Respondent is enrolled in or employed by another institution, a Coordinator can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, a Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to UHSP where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed remedially by the Coordinator if brought to their attention.

9. Supportive Measures

UHSP will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged discrimination, harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to UHSP's education program or activity, including measures designed to protect the safety of all Parties and/or UHSP's educational environment and/or to deter discrimination, harassment, and/or retaliation.

A Coordinator promptly makes supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint. At the time that supportive measures are offered, if a Complaint has not been filed, UHSP will inform the Complainant, in writing, that they may file a Complaint with UHSP either at that time or in the future. A Coordinator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

UHSP will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair UHSP's ability to provide those supportive measures. UHSP will act to ensure as minimal an academic/occupational impact on the Parties as possible. UHSP will implement measures in a way that does not unreasonably burden any party.

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
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact restrictions (no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass Letters/Warnings, or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Adjustments within classes or labs such as changes to seating assignments or lab partners.
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the 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.

The Parties are provided with a timely opportunity to seek modification or reversal of UHSP's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures. If it is based on sex-based harassment or discrimination, the Title IX Coordinator will ensure that the supportive measures are consistent with the Title IX regulatory definition of supportive measures. UHSP will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change. UHSP typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies) and the Coordinators.

10. Advisors in the Resolution Process for Sex-Based Harassments Involving Students

UHSP permits advisors only for sex-based harassment complaints involving students and any sexual assault, dating violence, domestic violence or stalking complaint. For other types of complaints, the EEO/504/ADA Coordinator can evaluate an optional support person of the Parties' choice, but that

person cannot participate in any meetings, the investigation or resolution process.

a. Who Can Serve as an Advisor?

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings and interviews within the Resolution Process, including intake. The Parties may select whomever they wish to serve as their Advisor if the Advisor is eligible and available.³

The EEO/504/ADA/Title IX Coordinator will offer to assign a trained Advisor from the UHSP faculty or staff to any party if the party chooses. If the Parties choose an Advisor from the pool available from UHSP, UHSP will have trained the Advisor and familiarized them with UHSP's Resolution Process.

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

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

UHSP may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX Coordinator. The decision to grant this request is at the Title IX Coordinator's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, UHSP will agree to copy both the party and their Advisor on all communications.

Advisors appointed by the institution cannot be confidential employees, and although they will not be asked to disclose details of their interactions with their advisees to institutional officials or Decision-makers absent an emergency, they are still reminded of their Mandated Reporter responsibilities.

³ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker(s).

b. Advisor's Role in the Resolution Process

Advisors should help the Parties to prepare for each meeting and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to ask and respond to questions on their own behalf throughout the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

c. Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to access relevant evidence, and/or the same written investigation report that accurately summarizes this evidence.

As stated in Section 18 of this policy, Advisors are expected to maintain the confidentiality of the records UHSP shares with them. Advisors may not disclose any UHSP work product or evidence UHSP obtained solely through the Resolution Process for any purpose not explicitly authorized by UHSP.

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

d. Advisor Expectations

UHSP generally expects an Advisor to adjust their schedule to allow them to attend UHSP meetings/interviews/proceedings when planned, but UHSP may change scheduled meetings/interviews/proceedings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

UHSP may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/proceedings by telephone, video conferencing, or other similar technologies.

All Advisors are subject to the same UHSP policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by UHSP. Advisors are expected to advise their advisees without disrupting proceedings.

e. Advisor Policy Violations

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

11. Online Harassment and Misconduct

UHSP policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or impact UHSP's education program and activities, or when they involve the use of UHSP networks, technology, or equipment.

Although UHSP may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to UHSP, it will engage in a variety of means to address and mitigate the effects. These means may include use of the Resolution Process to address off-campus conduct whose effects contribute to limiting or denying a person access to UHSP's education program or activity.

12. Inclusion Related to Gender Identity/Expression

UHSP strives to ensure that all individuals are safe, included, and respected in their working and learning environments, regardless of their gender identity or expression, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees.

Discrimination and harassment based on gender identity or expression are not tolerated by UHSP. If a member of UHSP community believes they have been subjected to discrimination under this Policy, they should follow the appropriate reporting process described herein.

UHSP is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to UHSP's goal of being as welcoming and inclusive a community as possible.

Misgendering or mispronouncing is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with a simple apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with our University core values, the type of community we hold ourselves out to be, and is a Policy violation . We each have a right to determine our own gender identity and expression, but we don't get to choose or negate someone else's.

Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, nonbinary, or gender diverse. Deadnaming means using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

Again, unintentional deadnaming can be addressed by a simple apology and an effort to use the person's chosen name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

This Policy should be interpreted consistent with the goals of maximizing the inclusion of gender-diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all employees have equal access to employment opportunities and work, service, or health-related facilities
- Providing professional development for employees and education for students on topics related to gender inclusion
- Encouraging all students and employees to respect the pronoun usage and identities of all members of UHSP community

UHSP uses several interventions to address concerns related to gender-based harassment or discrimination, including problem-solving, intervention, confrontation, informal resolution methods, and complaint investigation and administrative resolution processes. When conflicts arise between the right of members of the community to be free from gender-identity discrimination and those exercising their right to religious freedom, UHSP will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, UHSP will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

13. Prohibited Conduct

Students and employees are entitled to an employment and educational environment free of discrimination, harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited discrimination, harassment, and retaliation that are also prohibited under UHSP Policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of UHSP Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses. Appendix A contains a list of terms used throughout the policy.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice-versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

Violation of any other UHSP policies may constitute discrimination or harassment when motivated by actual or perceived protected characteristic(s), and the result is a limitation or denial of employment or educational access, benefits, or opportunities.

a. Discrimination

Discrimination is different treatment with respect to a person's employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived protected characteristic. Discrimination also includes allegations of a failure to provide reasonable accommodations as required by law or policy, such as for disability, religion, or creed.

Discrimination can take two primary forms:

1. Disparate Treatment Discrimination:

- Any intentional differential treatment of a person or persons that is based on a person's actual or perceived protected characteristic and that:
 - Excludes a person from participation in;
 - Denies the person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a UHSP program or activity.

2. Disparate Impact Discrimination:

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that:
 - Excludes an individual from participation in;
 - Denies the individual benefits of; or
 - Otherwise adversely affects a term or condition of an individual's participation in a UHSP program or activity.

Sanctions for Discrimination

The range of sanctions for discrimination is warning through expulsion or termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.

b. Discriminatory Harassment

Discriminatory harassment is defined as:

- unwelcome conduct based on actual or perceived protected characteristic(s), that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from UHSP's education program or activity

Sanctions for Discriminatory Harassment

The typical range of sanctions for discriminatory harassment is warning through expulsion or termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.

c. Sex-based Harassment (Applicable under Title IX, Title VII, and the Fair Housing Act)

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex,⁴ including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

⁴ Throughout this Policy, "on the basis of sex" means conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.

1. Quid pro quo Harassment:

- an employee agent, or other person authorized by UHSP,
- to provide an aid, benefit, or service under UHSP's education program or activity,
- explicitly or impliedly conditioning the provision of such aid, benefit, or service,
- on a person's participation in unwelcome sexual conduct.

2. Hostile Environment Harassment:

- unwelcome sex-based conduct, that
- based on the totality of the circumstances,
- is subjectively and objectively offensive, and
- is so severe or pervasive,
- that it limits or denies a person's ability to participate in or benefit from UHSP's education program or activity

UHSP reserves the right to address offensive conduct and/or harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under UHSP Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Coordinator.

3. Sexual Assault:⁵

a. Rape:

- 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 consent of the Complainant,

b. Fondling:

- The touching of the private body parts (breasts, buttocks, groin) of the Complainant
- For the purpose of sexual gratification
- without the consent of the Complainant, including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental incapacity or physical incapacity.

c. Incest:

- c. Nonforcible sexual intercourse between persons who are related to each other
- d. within the degrees wherein marriage is prohibited by Missouri law, or other established work states that employees may work in.

e. Statutory Rape:

- d. Nonforcible sexual intercourse with a person
- e. who is under the statutory age of consent of Missouri, or other established work states that employees may work in.

4. Dating Violence:

- Violence⁶ committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; **and**
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - length of the relationship
 - type of relationship
 - frequency of the interaction between the Parties involved in the relationship.

5. Domestic Violence:

- Felony or misdemeanor crimes committed by a person who:

⁶ For purposes of this Policy, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

- is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of Missouri (or other established work states that employees may work in), or a person similarly situated to a spouse of the Complainant;
- is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- shares a child in common with the Complainant; **or**
- commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of Missouri (or other established work states that employees may work in).

6. Stalking:

- engaging in a course of conduct⁷ on the basis of sex, that is,
- directed at a specific person that would cause a reasonable person⁸ to:
 - fear for the person's safety, or
 - the safety of others; or
 - suffer substantial emotional distress.⁹

Sanctions for Sex-Based Harassment

- The typical range of sanctions for Quid Pro Quo harassment is warning through expulsion/termination. Sanctions can be impacted by aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The typical range of sanctions for Hostile Environment harassment is warning through expulsion/termination. Sanctions can be impacted by aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The typical range of sanctions for Rape is suspension through expulsion/termination. Sanctions can be impacted by aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The typical range of sanctions for Sexual Assault with an Object is suspension through expulsion/termination. Sanctions can be impacted by aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.

⁷ For purposes of this definition, "A 'course of conduct' requires that there be more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. (Federal Register, Vol 89, No. 83, 04/29/2024, p. 33523). Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.

⁸ Reasonable person is an objective standard meaning a person in the Complainant's shoes (having similar characteristics/demographics to the Complainant).

⁹ In the context of stalking, a Complainant is not required to obtain medical or other professional treatment and counseling is not required to show substantial emotional distress.

- The typical range of sanctions for Sodomy is suspension through expulsion/termination. Sanctions can be impacted by aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The typical range of sanctions for Fondling is warning through suspension (termination for employees). Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The typical range of sanctions for Incest is suspension through probation. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The typical range of sanctions for Statutory Rape is warning through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The typical range of sanctions for Stalking is probation through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- The typical range of sanctions for Dating/Domestic Violence is probation through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.

7. Sexual Misconduct

1. Sexual Exploitation:¹⁰

- an individual taking non-consensual or abusive sexual advantage of another, that does not constitute Sex-based Harassment as defined above.
- for their own benefit or for the benefit of anyone other than the person being exploited.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy

¹⁰ This offense is not classified under Title IX as “Sex-based harassment,” but it is included here in this Policy as a tool to address a wider range of behaviors.

during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography

- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., Deepfakes)
- Creating or disseminating images or videos of child sexual abuse material

Sanctions for Sexual Exploitation

The typical range of sanctions for Sexual Exploitation is warning through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.

d. Other Conduct Prohibited Related to Protected Class or Protections under this Policy

1. Bullying:¹¹

- repeated and/or severe aggressive behavior
- that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,

¹¹ For Bullying, Hazing, and Endangerment, these offenses can be applied when the conduct is on the basis of protected characteristics but is not a form of Sex-based Harassment.

2. Endangerment:

- threatening or causing physical harm;
- extreme verbal, emotional, or psychological abuse; or
- other conduct which threatens or endangers the health or safety of any person or damages their property.

3. Hazing:

- any act or action
- which does or is likely to endanger the mental or physical health or safety of any individual
- as it relates to an individual's initiation, admission into, or affiliation with any UHSP group or organization.

For the purposes of this definition:

- It is not necessary that a person's initiation or continued membership is contingent upon participation in the activity, or that the activity was sanctioned or approved by the Student Group or Student Organization, for an allegation of hazing to be upheld.
- It shall not constitute an excuse or defense to a hazing allegation that the participants took part voluntarily, gave consent to the conduct, voluntarily assumed the risks or hardship of the activity, or that no injury was suffered or sustained.
- The actions of alumni, active, new, and/or prospective members of a Student Group or Student Organization may be considered hazing.
- Hazing is not confined to the Student Group or Student Organization with which the individual subjected to the hazing is associated.

4. Retaliation:

- Adverse action, including intimidation, threats, coercion, or discrimination,
- against any person,
- by UHSP, a student, employee, or a person authorized by UHSP to provide aid, benefit, or service under UHSP's education program or activity,
- for the purpose of interfering with any right or privilege secured by law or Policy, or
- because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under the Equal Opportunity, Harassment and Nondiscrimination Procedures, including an Informal Resolution process, or in any other appropriate steps taken by UHSP to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

It is also not retaliation for UHSP to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the Equal Opportunity, Harassment and Nondiscrimination Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

5. Unauthorized Disclosure:¹²

- Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by UHSP; or
- publicly disclosing a party's personally identifiable information without authorization or consent.

6. Failure to Comply/Process Interference

- Intentional failure to comply with the reasonable directives of a Coordinator in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an agreement achieved through informal resolution
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Title IX resolution process, including but not limited to:
 - Destruction of or concealing of evidence
 - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
 - Intimidating or bribing a witness or party

Sanctions for Other Conduct Prohibited Related to Protected Characteristics or Protections under this Policy

- The typical range of sanctions for Bullying, Endangerment, and Hazing is warning through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.

¹² Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the Resolution Process.

- The typical range of sanctions for Retaliation is warning through expulsion/termination. Sanctions can be assigned outside this range based on aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent.
- Typical Sanctions for the above-listed Unauthorized Disclosure or Failure to Comply/Process Interference range from warning through expulsion/termination.

14. Consent, Force, and Incapacitation

As used in this Policy, the following definitions and understandings apply:

a. Consent

Consent is defined as:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.¹³

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to be kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, sexual activity should cease within a reasonably immediate time.

¹³ The state of Missouri uses the following concept of consent relative to criminal offenses: Consent is knowing and voluntary agreement between all involved parties. Consent can be expressed or implied, but it may be invalidated if it is given by someone who lacks the mental capacity to make a reasonable judgment about the nature or harmfulness of the act. This includes people who are intoxicated, under the influence of drugs, or have a mental disease or defect. Consent may also be invalidated if it is induced by force, duress, or deception.

Silence or the absence of resistance alone should not be interpreted as consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on UHSP to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault.¹⁴

b. Coercion and Force

In some situations, an individual's ability to freely, willingly, and knowingly give consent is taken away by another person or circumstance. If force, intimidation and coercion are present, there cannot be consent.

Examples include, but are not limited to:

- When an individual is physically forced to participate. Force is the use or threat of physical violence and/or imposing on someone physically in order to gain sexual access. There is no requirement that a party resists the sexual advance or request for force to take place, but resistance is a clear demonstration of non-consent.
- When an individual is intimidated or threatened – even a perceived threat – isolated or confined.
- When evaluating coercive behavior, factors such as the frequency, duration, location (isolation of recipient of unwanted contact), and intensity of coercive behaviors will be considered. A person's words or conduct are sufficient to

¹⁴ Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual.

constitute coercion if they significantly impair another individual's freedom of will and ability to choose whether to engage in sexual activity.

- Examples include credible threats to release sexual photos, spread inaccurate information, falsely report, physically restrain or restrict access or escape, threats to physically harm self or others, use or threat of a weapon. For example, "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me. I'll do what you want.").
- Generally, for those in a relationship, requests for specific sexual activity, requests for frequent sexual activity or threats to end a relationship do not constitute coercion, intimidation, or force.

c. Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, and how" of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption. Examples may include slurred or incoherent speech, difficulty walking or standing without stumbling or assistance.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

15. Expectations Regarding Unethical Relationships

There are inherent risks in any romantic or sexual relationship between persons in unequal positions, such as faculty member-student or supervisor-employee. These relationships may be less consensual than perceived by the person whose position confers power or authority. Similarly, each of the Parties may view the relationship differently, particularly in retrospect. Circumstances may change, and once welcomed conduct may become unwelcome at some point in the relationship.

Even when the Parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant Policy violation still exists. UHSP does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with UHSP's goals and policies. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student, University leader-other employee) are strongly discouraged. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must promptly inform their supervisor and/or Human Resources. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an applicable relationship existed prior to adoption of this Policy or prior to employment, the duty to notify the appropriate supervisor still pertains.

This type of relationship includes Resident Assistants (RAs) and students for whom the RA has direct responsibility. While no relationships are specifically prohibited by this Policy, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee. Violations of this provision will be evaluated by Human Resources for employees and Student Conduct students (who are not in an employment context) for resolution, or to pursue resolution under this Policy, based on the circumstances of the allegation.

16. Standard of Proof

UHSP uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that UHSP will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

17. Reports/Complaints of Discrimination, Harassment, and/or Retaliation

A Report provides notice to UHSP of an allegation or concern about discrimination, harassment, or retaliation and provides an opportunity for the appropriate Coordinator to provide information, resources, and supportive measures. A Complaint provides notice to UHSP that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint.

Reports or Complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a Complaint with, or give verbal Notice directly to, the Appropriate Coordinator or to any member of the Nondiscrimination Team. Such a Complaint may be made at any time (including during non-business hours) by using the telephone number, email address, or by mail to the office of the Appropriate Coordinator or any other Nondiscrimination Team member listed in this Policy.
- 2) Submit Notice online through UHSP's Compliance and Ethics [Online Reporting Portal](#), via phone at 866-770-0009. For full details on the Compliance and Ethics Hotline please view our website at uhsp.edu/compliance-and-ethics. Anonymous Notice is accepted, but the Notice may give rise to a need to try to determine the Parties' identities. Anonymous Notice typically limits UHSP's ability to investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous Notice.

Reporting carries no obligation to initiate a Complaint, and in most situations, UHSP is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where UHSP may need to initiate a resolution process. If a Complainant does not wish to file a Complaint, UHSP will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows UHSP to discuss and/or provide supportive measures, in most circumstances.

18. Time Limits on Reporting

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

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Coordinator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

19. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate UHSP policies.

20. Confidentiality/Privacy

UHSP makes every effort to preserve the Parties' privacy. UHSP will not share the identity of any individual who has made a Complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law; including any investigation, or resolution proceeding arising under these policies and procedures.^{15,16} Additional information regarding confidentiality and privacy can be found in [Appendix E](#).

Unauthorized Disclosure of Information

Parties and Advisors are prohibited from unauthorized disclosure of information obtained by UHSP through the Resolution Process, to the extent that information is the work product of UHSP (meaning it has been produced, compiled, or written by UHSP for purposes of its investigation and resolution of a Complaint). It is also a violation of UHSP Policy to publicly disclose work product or a party's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

21. Emergency Removal/Interim Actions/Leaves

a. Emergency Removal/Interim Suspension of a Student

In an emergency, UHSP may remove a student accused of Sex Discrimination or Sex-based Harassment, including a student employee accused of misconduct in the course of their employment, upon receipt of Notice/Knowledge, a Complaint, or at any time during the resolution process. Prior to an emergency removal, UHSP will conduct an individualized risk assessment and may remove the student if that assessment determines that an imminent and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies such action. Students accused of other forms of Prohibited Conduct under this Policy (other than sex) are subject to interim suspension, which can be imposed for safety reasons.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the EEO/504/ADA/Title IX Administrator will meet with the student (and their Advisor, if

¹⁵ 20 U.S.C. 1232g

¹⁶ 34 C.F.R. § 99

applicable and desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or should be lifted. If this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant (and their Advisor, if applicable) may be permitted to participate in this meeting if the Appropriate Coordinator determines it is equitable to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the EEO/504/ADA/Title IX Coordinator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted because of a requested review or as new information becomes available. The EEO/504/ADA/Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

b. Placing an Employee on Leave

When the Respondent is an employee, existing provisions regarding placing employees on administrative leave or suspension from employment are typically applicable instead of the above emergency removal process.

22. Federal Timely Warning Obligations

UHSP must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of UHSP community in accordance with the Clery Act and related University policies.

UHSP will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

23. Amnesty

UHSP community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give Notice to UHSP officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such

as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interest of UHSP community that Complainants choose to give Notice of misconduct to UHSP officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, UHSP maintains a Policy of offering Parties and witnesses amnesty from minor policy violations related to the incident. Granting amnesty is a discretionary decision made by EEO/ADA/Title IX Coordinator, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

24. Collateral Misconduct

Collateral misconduct is defined to include potential violations of other UHSP policies not incorporated into the Policy on Equal Opportunity, Harassment, and Nondiscrimination 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 Coordinator may consult with UHSP 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 the EEO/ADA/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.

25. Preservation of Evidence

The preservation of evidence is critical to potential UHSP investigation and/or criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. UHSP will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or a secure evidence container (if provided one by law enforcement)
- Seeking medical treatment can be essential, even if it is not for the purposes of collecting forensic evidence.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take timestamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and an EEO/504/ADA/Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

26. Federal Statistical Reporting Obligations

Certain institutional officials (those deemed Campus Security Authorities or CSA's) have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All "primary crimes," which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking¹⁷
- 4) Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with Director, Public Safety for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include student affairs/student conduct staff, campus law enforcement/public safety/security, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

¹⁷ VAWA is the Violence Against Women Act, enacted in 1994 and codified in part at 42 U.S.C. sections 13701 through 14040.

27. Policies Related to the Complaint and Resolution Process

a. Independence and Conflicts of Interest

The Chief EEO/504/ADA/Title IX Administrator manages the Nondiscrimination Team and acts with independence and authority, free from bias and conflicts of interest. The Chief EEO/504/ADA/Title IX Administrator oversees all resolutions under this Policy and these procedures. The members of the Resolution Pool are vetted and trained to ensure they are not biased for or against any party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

The Coordinator will take appropriate steps to review investigators and decision makers for conflicts of interest and bias before initiating administrative resolution processes outlined in this policy.

Parties may raise concern regarding bias, conflict of interest, misconduct, or discrimination by any members of the Nondiscrimination Team and Resolution Process Administration Pool in writing to the Chief EEO/504/ADA/Title IX Administrator. Should there be concerns about the Chief EEO/504/ADA/Title IX Administrator, contact UHSP Chief of Staff at 314-446-8349 or Michael.Sass@uhsp.edu. The written concern must outline the specific reason(s) for bias, conflict of interest, misconduct or discrimination as well as how that information may impact the process.

The Chief EEO/504/ADA/Title IX Administrator will review the report and determine if the reported conflict, bias or other issue is substantial enough to make the procedures unfairly favor one party over the other. This review may include interviews. If substantial conflict or bias is determined, an alternative official will be assigned by the Chief EEO/504/ADA/Title IX Administrator and the parties notified. If it is determined there is insufficient evidence for significant conflict or bias, the parties will be notified.

b. Resolution Options Overview

This Resolution Process, consisting of Informal Resolution or Administrative Resolution, is UHSP's chosen approach to addressing all forms of discrimination on the basis of protected characteristics, harassment, retaliation, and other prohibited conduct under the policy. The process considers the Parties' preferences but is ultimately determined at the Coordinator's discretion.

Resolution proceedings are confidential. All individuals present at any time during the Resolution Process are expected to maintain the confidentiality of the proceedings in accordance with UHSP Policy.

1) Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the EEO/504/ADA/Title IX Coordinator at any time prior to a final determination, or the EEO/504/ADA/Title IX Coordinator may offer the option to the Parties, in writing. UHSP will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

Before initiation of an Informal Resolution process, UHSP will provide the Parties with a Notice of Investigation and Allegations that explains:

- The allegations;
- The requirements of the Informal Resolution process;
- That, prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution process and to initiate or resume UHSP's Resolution Process;
- 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;
- 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
- What information UHSP will maintain, and whether and how it could disclose such information for use in its Resolution Process.

UHSP offers four categories of Informal Resolution:

- 1) **Supportive Resolution.** When the EEO/504/ADA/Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation.
- 2) **Educational Conversation.** When the EEO/504/ADA/Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and institutional expectations or can accompany the Complainant in their desire to confront the conduct.
- 3) **Accepted Responsibility.** When the Respondent is willing to accept responsibility for violating Policy and is willing to agree to actions that will be enforced similarly to sanctions, and the Complainant(s) and EEO/504/ADA/Title IX Coordinator are agreeable to the resolution terms.
- 4) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

The individual facilitating an Informal Resolution must be trained and cannot be the Investigator (if an investigation has been started), Decision-maker, or Appeal Decision-maker.

It is not necessary to pursue Informal Resolution first in order to pursue an Administrative Resolution Process. Any party participating in Informal Resolution can withdraw from the Informal Resolution Process at any time and initiate or resume the Administrative Resolution Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Administrative Resolution Process, should Informal Resolution not be successful, unless agreed to by all Parties.

If an investigation is already underway, the EEO/504/ADA/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.

Categories of Informal Resolution

a) Supportive Resolution

The EEO/504/ADA/Title IX Coordinator will meet with the Complainant to determine reasonable supportive measures that are designed to restore or preserve the Complainant's access to UHSP's education program and activity. Such measures can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the Notice of Investigation and Allegations, the EEO/504/ADA/Title IX Coordinator may also provide reasonable supportive measures for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the EEO/504/ADA/Title IX Coordinator does not initiate a Complaint.

b) Educational Conversation

The Complainant(s) may request that the EEO/504/ADA/Title IX Coordinator address their allegations by meeting with the Respondent(s) (with or without the Complainant) to discuss concerning behavior, as well as institutional policies and expectations. Such a conversation is non-disciplinary and non-punitive. Respondent(s) are not required to attend such meetings, nor are they compelled to provide any information if they attend. The conversation will be documented as the Informal Resolution for the matter, if it takes place. In light of this conversation, or the Respondent's decision not to attend, the

EEO/504/ADA/Title IX Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of recurrence of any behaviors that may not align with Policy.

c) Accepted Responsibility¹⁸

The Respondent may accept responsibility for any or all alleged Policy violations during the Resolution Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the EEO/504/ADA/Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the EEO/504/ADA/Title IX Coordinator will determine whether all Parties and UHSP are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the EEO/504/ADA/Title IX Coordinator implements the accepted finding that the Respondent is in violation of UHSP Policy, implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate administrator(s), as necessary.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. If the Parties cannot agree on all terms of resolution, the Resolution Process will either continue or resume.

d) Alternative Resolution

The institution offers a variety of Alternative Resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the EEO/504/ADA/Title IX Coordinator or other appropriate UHSP officials; and other forms of resolution that can be tailored to the

¹⁸ [Section 20](#) below, there is a description of a process to waive the decision-making step of the Resolution Process if a Respondent decides to admit to violating the charged Policies. That section and this one are similar, but there are meaningful differences. In this section, the Parties must agree to the resolution, and the Respondent in essence self-sanctions as part of the Informal Resolution by agreeing to voluntarily comply with whatever the terms are to which the Parties agree. Section 20, in contrast, is unilateral. Neither the Complainant nor the Coordinator determine eligibility. It is simply a waiver of steps in the process by the Respondent, who can admit violations and accept sanctions assigned by the Decision-maker, if they choose to. No Complainant approval is sought or needed. Under Section 20, the outcome involves sanctioning imposed by the University, rather than an agreement to self-sanction, as outlined in this section.

needs of the Parties. Some Alternative Resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an Alternative Resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an Alternative Resolution process.

The EEO/504/ADA/Title IX Coordinator may consider the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the Parties:

- The Parties' amenability to Alternative Resolution
- Likelihood of potential resolution, considering any power dynamics between the Parties
- The nature and severity of the alleged misconduct
- The Parties' motivation to participate
- Civility of the Parties
- Results of a violence risk assessment/ongoing risk analysis
- Respondent's disciplinary history
- Whether an emergency removal or other interim action is needed
- Skill of the Alternative Resolution facilitator with this type of Complaint
- Complaint complexity
- Emotional investment/capability of the Parties
- Rationality of the Parties
- Goals of the Parties
- Adequate resources to invest in Alternative Resolution (e.g., time, staff, etc.)

The EEO/504/ADA/Title IX Coordinator has the authority to determine whether Alternative Resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the Alternative Resolution process. The EEO/504/ADA/Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the Alternative Resolution.

The EEO/504/ADA/Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the Resolution Process, referral to the conduct process for failure to comply, application of the enforcement terms of the Agreement, etc.).

The results of Complaints resolved by Alternative Resolution are not appealable.

If an Informal Resolution option is not available or selected, UHSP will initiate or continue an investigation and subsequent Resolution Process to determine whether the Policy has been violated.

2) Administrative Resolution Process

Details regarding Administrative Resolution Process Steps are contained below. In general, Administrative Resolution Process, and UHSP officials involved, work to ensure:

- Equitable treatment of complainants and respondents
- That the EEO/504/ADA/Title IX Coordinator, investigator and Decision-Maker do not have a conflict of interest or bias.
- Presumption that the respondent is not responsible for the alleged conduct until a determination has been made at the conclusion of the Administrative Resolution Process.
- Reasonably prompt timeframes for all major stages
- The taking of reasonable steps to protect privacy of Parties and witnesses.
- Objective evaluation of all relevant and not otherwise impermissible evidence.
- Provision of notice to parties, as well as updates, to major steps in the process
- Apply special rules in cases of sex-based harassment consistent with Title IX regulations.

c. Resolution Process Administrator Pool

The Resolution Process relies on a pool of administrators (“the Pool”) to carry out the process.¹⁹

1) Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the discretion of the EEO/504/ADA/Title IX Coordinator:

- Appropriate intake of and initial guidance pertaining to Complaints, usually completed by members of the Nondiscrimination Team
- Advisor to Parties (for student sex-harassment complaints only)
- Informal Resolution Facilitator
- Perform or assist with initial evaluation
- Investigator
- Decision-maker
- Decision-maker for challenges to emergency removal and supportive measures
- Appeal of Dismissal Decision-maker

¹⁹ External, trained third-party neutral professionals may also be used to serve in Pool roles.

- Appeal Decision-maker

2) Pool Member Appointment

The Chief EEO/504/ADA/Title IX Administrator, in consultation with senior administrators as necessary, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Complaints, UHSP can also designate permanent roles for individuals in the Pool.

3) Pool Member Training

See [Appendix J](#) for details of training for Pool Members.

d. Resolution Timeline

UHSP will make a good faith effort to complete the Resolution Process within sixty to ninety (60 to 90) business days, including any appeals, which can be extended as necessary for appropriate cause by the EEO/504/ADA/Title IX Coordinator. The Parties will receive regular updates on the progress of the Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60 business days), though some investigations may take longer, depending on issues such as the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

If a party or witness chooses not to participate in the Resolution Process or becomes unresponsive, UHSP reserves the right to continue it without their participation to ensure a prompt resolution. Non-participatory or unresponsive Parties retain the rights outlined in this Policy and the opportunity to participate in the Resolution Process.

UHSP may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to delay the investigation temporarily, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. UHSP will promptly resume its Resolution Process as soon as feasible. During such a delay, UHSP will implement and maintain supportive measures for the Parties as deemed appropriate.

UHSP's action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

UHSP will make a good faith effort to complete the Resolution Process as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the process.

e. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the EEO/504/ADA/Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party, or for a specific Complainant or Respondent.

The EEO/504/ADA/Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeals officers for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest in writing to the EEO/504/ADA/Title IX Coordinator who will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the EEO/504/ADA/Title IX Coordinator, concerns should be raised with the Chief of Staff.

The Resolution Process involves an objective evaluation of all available relevant and not otherwise impermissible evidence, including evidence that supports that the Respondent engaged in a Policy violation and evidence that supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written investigation report that accurately summarizes this evidence.

f. Long-Term Remedies/Other Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented or Informal Resolution terms, the EEO/504/ADA/Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or UHSP community that are intended to stop the discrimination, harassment, and/or retaliation, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees

- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the EEO/504/ADA/Title IX Coordinator, certain long-term supportive measures may also be provided to the Parties even if no Policy violation is found.

When no Policy violation is found, the EEO/504/ADA/Title IX Coordinator will address any remedies UHSP owes the Respondent to ensure no effective denial of educational access.

UHSP will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair UHSP's ability to provide these services.

g. 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 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 UHSP.

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 EEO/504/ADA/Title IX Coordinator satisfaction.

h. Withdrawal or Resignation Before Complaint Resolution

1) Students

Should a student Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If a student Respondent withdraws from UHSP, the Resolution Process may continue, or Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, UHSP will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the Complaint is dismissed or pursued to completion of the Resolution Process, UHSP will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When a student withdraws or leaves while the process is pending, the student may not return to UHSP in any capacity until the Complaint is resolved and any sanctions imposed are satisfied. If the student indicates they will not return, the Coordinator has the discretion to dismiss the Complaint. The Registrar and Office of Admissions will be notified, accordingly. A note will be made on the student transcript of a pending conduct issue that was not concluded due to withdrawal.

If the student Respondent takes a leave for a specified period (e.g., one semester or term), the Resolution Process may continue remotely. If found in violation, that student is not permitted to return to UHSP unless and until all sanctions, if any, have been satisfied.

2) Employees

Should an employee Respondent decide not to participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. If an employee Respondent withdraws from UHSP with unresolved allegations pending, the Resolution Process may continue, or EEO/504/ADA/Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, UHSP may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to UHSP in any capacity. Human resources, the registrar, and admissions will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with UHSP. The records retained by the EEO/504/ADA/Title IX Coordinator will reflect that status.

i. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Resolution Process, UHSP will maintain records of:

- 1) Each discrimination, harassment, and retaliation resolution process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to UHSP's education program or activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to provide training to the EEO/504/ADA/Title IX Coordinator, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitator, and any person who is responsible for implementing UHSP Resolution Process, or who has the authority to modify or terminate supportive measures. UHSP will make these training materials available for review upon request.
- 7) All materials used to train all employees consistent with the requirements in the Title IX Regulations.

UHSP will also maintain any and all records in accordance with state and federal laws and its Record Retention Policy.

Drafts and Working Files: Preliminary drafts and "working files" are not considered records that UHSP must maintain, and these are typically destroyed during the course of an investigation or at the conclusion of the Resolution Process. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their author and/or the Administrator. An example of a "working file" would be the Investigator's notes made during an interview on topics that they want to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category. All drafts of investigation reports shared with the Parties are maintained.

Attorney Work-Product: Communications from the Nondiscrimination Team or their designees with UHSP's legal counsel may be work product protected by attorney-client privilege. These privileged communications are not considered records to be maintained by the Chief EEO/504/ADA/Title IX Administrator or accessible under this Policy unless the Administrator, in consultation with legal counsel as necessary, determines that these communications should be included as accessible records.

Record Storage: Records may be created and maintained in different media formats; this Policy applies to all records, irrespective of format. All records created pursuant to the Policy, as defined above, must be stored in digital format and maintained by Chief EEO/504/ADA/Title IX Administrator in an approved

storage system. Security protocols must be in place to preserve the integrity and privacy of any parts of any record that are maintained during the pendency of an investigation.

Records created pursuant to the Policy, regardless of the identities of the Parties, will be stored the same way. Any extra (non-essential) copies of the records (both digital and paper) must be destroyed.

j. Accommodations and Support During the Resolution Process

Disability Accommodations

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

Anyone needing such accommodations or support should contact the 504/ADA Coordinator, 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

UHSP 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

28. Revision of this Policy

This Policy succeeds previous policies addressing discrimination, harassment, sexual misconduct, and/or retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Chief EEO/504/ADA/Title IX Administrator reviews and updates these policies and procedures regularly. UHSP reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

This Policy is effective August 1, 2024.

PROCEDURES

Procedures for Resolution Process for Alleged Violations of the Policy on Equal Opportunity, Harassment and Nondiscrimination

UHSP will act on any Notice, Complaint, or Knowledge of a potential violation of the Equal Opportunity, Harassment and Nondiscrimination Policy (“the Policy”) that is received by the any member of the Nondiscrimination Team (EEO/504/ADA/Title IX Coordinator) or any other Mandated Reporter by applying the Resolution Process below.

All allegations of discrimination on the basis of an actual or perceived protected characteristic, harassment, retaliation, or Other Prohibited Conduct involving students, staff, administrators, faculty members, or third parties follow a similar process. Where special specific policies, procedures, rules and/or proceedings exist for specific types of Prohibited Conduct complaints those are outlined in the Resolution Process. For example, while substantially similar to other types of harassment complaints, special policies, procedures, rules and procedures are set for sex harassment complaints involving students.

UHSP policies and practices outline specific officials at the University who are responsible for certain aspects of the policy, supportive measures, and the administrative resolution process. A list of the individuals is maintained as Appendix B.

1. Notice/Complaint

Upon receipt of Notice, a Complaint, or Knowledge of an alleged Policy violation, a Coordinator will initiate a prompt initial evaluation to determine UHSP’s next steps. This staff person will contact the Complainant/source of the Notice to offer supportive measures, provide information regarding resolution options, and determine how the Complainant wishes to proceed.

2. Initial Evaluation

The Coordinator conducts an initial evaluation typically within seven (7) business days of receiving Notice/Complaint/Knowledge of alleged misconduct.²⁰ The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.

²⁰ If circumstances require, the Chief of Staff or Chief EEO/504/ADA/Title IX Administrator will designate another person to oversee the Resolution Process should an allegation be made about the EEO/504/ADA/Title IX Coordinator or the Chief EEO/504/ADA/Title IX Administrator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

- 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.
- Determining whether UHSP has jurisdiction over the reported conduct, as defined in the Policy.
 - If the conduct is not within UHSP 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 UHSP office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- 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.
- Determining whether the Complainant wishes to make a Complaint.
- Notifying the Respondent of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

a. Helping a Complainant to Understand Options

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), a EEO/504/ADA/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 two resolution options:
 - Informal Resolution which could include supportive resolution, educational conversation, or an alternative resolution such as a restorative solution, or
 - the Administrative Resolution Process with investigation and finding by a University Decision Maker described below.

The 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 Coordinator has determined the Policy applies and that UHSP has jurisdiction, they will route the matter to the appropriate Resolution Process, will provide the Parties with a Notice of Investigation and Allegation(s) (NOIA), 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 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 EEO/504/ADA/Title IX Coordinator), though the Complainant can elect to initiate one later, if desired.

b. EEO/504/ADA/Title IX Coordinator Authority to Initiate a Complaint

If the Complainant does not wish to file a Complaint, the EEO/504/ADA/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 EEO/504/ADA/Title IX Coordinator will evaluate that request to determine if there is a serious and imminent threat to someone's safety or if UHSP cannot ensure equal access without initiating a Complaint. The EEO/504/ADA/Title IX Coordinator will consider the following non-exhaustive factors to determine whether to file a Complaint:

- The Complainant's request not to proceed with initiation of a Complaint; including the Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of discrimination would occur if a Complaint is not initiated;
- 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;
- The age and relationship of the Parties, including whether the Respondent is a UHSP employee;
- The scope of the alleged discrimination, including information suggesting a pattern, ongoing discrimination, or discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-maker in determining whether discrimination occurred;
- Whether UHSP could end the alleged discrimination and prevent its recurrence without initiating its resolution process.

If deemed necessary, the EEO/504/ADA/Title IX Coordinator may consult with appropriate UHSP employees, and/or conduct a violence risk assessment²¹ to aid their determination whether to initiate a Complaint.

When the EEO/504/ADA/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.

²¹ See detailed information regarding a Violence Risk Assessment in [Appendix G](#)

c. Counter-Complaints

UHSP is obligated to ensure that the resolution process is not abused for retaliatory purposes. Although UHSP permits the filing of Counter-Complaints, the EEO/504/ADA/Title IX Coordinator will use an initial evaluation, 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 EEO/504/ADA/Title IX Coordinator's discretion, investigation of such claims may take place concurrently or after resolution of the underlying initial Complaint.

d. Dismissal of a Complaint

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

- 1) UHSP is unable to identify the Respondent after taking reasonable steps to do so
- 2) UHSP no longer enrolls or employs the Respondent
- 3) A Complainant voluntarily withdraws any or all allegations in the Complaint, and the Coordinator declines to initiate a Complaint
- 4) UHSP determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven

A Decision-maker can recommend dismissal to the 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 of a complaint, the EEO/504/ADA/Title IX Coordinator 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, EEO/504/ADA/Title IX Coordinator will also notify the Respondent of the dismissal of the complaint.

1) Appeal of Complaint Dismissal

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 EEO/504/ADA/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 EEO/504/ADA/Title IX Coordinator must then provide the Respondent with a Notice of Investigation and Allegations (NOIA) and will notify the Respondent of the Complainant's appeal with an opportunity to respond.

Throughout the dismissal of complaint appeal process, UHSP will:

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

The grounds for dismissal of complaint appeals 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 EEO/504/ADA/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.

Upon receipt of a dismissal of complaint appeal in writing from one or more Parties, the EEO/504/ADA/Title IX Coordinator will share the petition with the other party and provide three (3) business 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 EEO/504/ADA/Title IX Coordinator, who will be invited to respond in writing. At the conclusion of the response period, the EEO/504/ADA/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 Dismissal Complaint Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Dismissal Appeal Officer, and the Parties, their Advisors, and the EEO/504/ADA/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 Dismissal Appeal Officer will notify all Parties and their Advisors, and the EEO/504/ADA/Title IX Coordinator, of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most cases, dismissal of complaint appeals is confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Officer has seven (7) business days to review and decide on the appeal,

though extensions can be granted at the discretion of the EEO/504/ADA/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 Dismissal Appeal Officer may consult with the Coordinator on questions of procedure or rationale for clarification, if needed. The Coordinator will maintain documentation of all such consultation.

3. Investigation and Administrative Resolution Process

a. Notice of Investigation and Allegations

Prior to an investigation, the EEO/504/ADA/Title IX Coordinator will provide the Parties with a detailed written Notice of Investigation and Allegations (NOIA). Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA typically includes:

- A meaningful summary of all allegations
- The identity of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- The name(s) of the Investigator(s), along with a process to identify to the appropriate EEO/504/ADA/Title IX Coordinator, in advance of the interview process, any conflict of interest that the Investigator(s) may have
- A statement that UHSP presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all relevant evidence
- A statement that retaliation is prohibited
- Information about the confidentiality of the process, including that the Parties, and their Advisors if applicable, may not share UHSP work product obtained through the Resolution Process

- A statement that in cases of sex-harassment or sex-based harassment where at least one Party is a student, Parties may have an Advisor of their choice who may accompany them through all steps of the Resolution Process
- A statement informing the Parties that UHSP's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how a party may request disability accommodations during the Resolution Process
- A link to UHSP's Violence Against Women Act (VAWA) Brochure
- An instruction to preserve any evidence that is directly related to the allegations

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the Parties as indicated in official UHSP records, or emailed to the Parties' UHSP-issued email or designated accounts. Once mailed, emailed, and/or received in person, the notification will be presumptively delivered.

b. Investigator Appointment

Once an investigation is initiated, the Appropriate Coordinator appoints an Investigator(s) to conduct it. These Investigators may be members of the Resolution Process Pool, or any other trained Investigator, whether internal or external to UHSP's community.

c. Witness Role and Participation in the Investigation

Employees (not including Complainant and Respondent) are required to cooperate with and participate in UHSP's investigation and Resolution Process. Student witnesses and witnesses from outside UHSP community cannot be required to participate but are encouraged to cooperate with UHSP 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. UHSP 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.

d. Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Resolution Process (other than Informal Resolution meetings). The Parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If an Investigator(s) elects to audio and/or video record interviews, all involved individuals should be made aware of audio and/or video recording.

- **Special rules that apply only in cases of sex harassment involving students**

All interviews are recorded. The recording and/or transcript of those meetings will be provided to the Parties for their review.

e. Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider evidence that is deemed relevant and not otherwise impermissible.

Relevant evidence is that which may aid in determining whether the allegation occurred, or whether the behavior constitutes a violation of Policy.

Impermissible evidence is defined as evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless 1) evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct, or 2) is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent.

The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based harassment occurred.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

Within the limitations stated above, the investigation and determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

f. Respondent Admits Responsibility

At any point in the proceedings, if a Respondent elects to admit to the violations charged and waive further process, the Decision-maker 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. The Complainant retains their right to appeal a determination when a Respondent admits responsibility. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion.

g. Investigation Details

All investigations are adequate, thorough, reliable, impartial, prompt, and fair. They involve interviews with relevant Parties and witnesses, obtaining relevant evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications for consideration. These suggestions will be noted, even if not adopted. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

UHSP may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed and not necessarily in this order:

- Determine the identity and contact information of the Complainant.
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all specific policies implicated.
- Assist the EEO/504/ADA/Title IX Coordinator, if needed, with conducting a prompt initial evaluation to determine if the allegations indicate a potential Policy violation.
- Work with the EEO/504/ADA/Title IX Coordinator, as necessary, to prepare the initial Notice of Investigation and Allegations (NOIA). The NOIA may be amended with any additional or dismissed allegations.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses.
- When participation of a party is expected, provide that party with written notification of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Make good faith efforts to notify each party of any meeting or interview involving another party, in advance when possible.
- Interview the Complainant and the Respondent and conduct follow-up interviews with each, as necessary.
- Interview available, relevant witnesses and conduct follow-up interviews as necessary.
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript or recording) of the relevant evidence/testimony from their respective interviews and meetings.

- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of another party and/or witnesses. Document in the investigation report which questions were asked, with a rationale for any changes or omissions.
- Where possible, complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide the Parties with regular status updates throughout the investigation.
- Before the investigation ends, give the Parties and their respective Advisors a list of witnesses whose information will be used to render a finding.
- Ask the Parties to provide a list of questions they would like asked of the other party or any witnesses. The Investigator will ask those questions deemed relevant, and for any question deemed not relevant, will provide a rationale for not asking the question.
- Write a draft investigation report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all relevant evidence.
- The investigator will not present an investigation finding, but they may recommend a finding based on the investigation.
- Provide the Parties, and their respective Advisors if applicable, a copy of the draft investigation report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond. This response may include specific questions the Parties may want to ask of each other or witnesses. The Parties may elect to waive all or part of the review period.
- The Investigator reviews the review and comment responses from the Parties and may choose to follow up with Parties or Witnesses if relevant. Changes may be incorporated into the draft investigation report.
- The Investigator may share the investigation report with the Coordinator and/or legal counsel for their review and feedback and potential changes.
- Once the investigation is concluded the Investigator will share the Final Investigation Report with the Coordinator. The Coordinator then will share the Final Investigation Report with the Decision-maker and the Parties simultaneously to begin the Administration Resolution Process.

4. Administrative Resolution Process

The Administrative Resolution Process is used for all Complaints of discrimination based on protected characteristics, harassment, retaliation, and Other Prohibited Behaviors (as defined in Policy) or when Informal Resolution is either not elected or is unsuccessful.

The Administrative Resolution Process consists of delivery of the investigation report and all relevant evidence by the Coordinator to the appropriate Decision-maker to review, make a finding, and determine sanctions (if applicable).

At the discretion of Coordinator, the assigned Decision-maker will be an individual drawn from the Resolution Process Pool, or other trained individuals either internal or external to the institution.²² Once the Decision-maker receives and reviews the file, they can recommend dismissal to the Coordinator, if they believe the grounds are met.

The Administrative Resolution Process typically takes approximately thirty (30 business days) to complete, beginning with the Decision-maker's receipt of the Final Investigation Report. The Parties will be updated regularly on the timing and any significant deviation from this typical timeline.

a. Decision-Maker Meetings

- Upon receipt of the Final Investigation Report the Decision-maker will send the Parties a Notice of Resolution Process Interview with sufficient time for the Parties to prepare for the meeting, typically at least seven (7) business days prior to the meeting. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notice includes:
 - A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable administrative procedures, including any special procedures due to complaints of sex-harassment, and a statement of the potential sanctions/responsive actions that could result.
 - The time, date, and location of the meeting.
 - A description of any technology that will be used to facilitate the meeting.
 - Relevant information regarding logistics, pre-meetings, the identity of the Decision-maker, details related to questioning, the role of Advisors (if applicable), impact/mitigation statements, and how to request disability accommodations or other assistance.
 - An opportunity for the parties to ask questions addressed to the Parties, Witnesses, or Investigator not previously asked in the investigation process.
- The Decision-maker may then hold individual meetings with the Parties, and/or witnesses or the Investigator, to ask relevant questions such as those that will aid the Decision-maker in making their findings, potentially asking questions posed by the Parties that the Decision-maker deems relevant and not duplicative, including questions intended to assess credibility.
 - To the extent credibility is in dispute and relevant to one or more of the allegations, the questions provided by the Decision-maker may also explore credibility.
- Any party or student witness may choose not to participate in the administrative process, either because they do not attend meetings, or because they attend but refuse to participate in some or all questioning. Employee witnesses are required to participate in the meetings 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 Administrative Process or refusal to answer any or all questions.
- The Investigator will then compile any new, relevant evidence and information obtained through the meetings into an Administrative Resolution Process File.
- **Special rules that apply only in cases of sex harassment involving students**

²² The choice of a single Decision-maker or panel should generally be consistent for the same types of Complaints, and not vary Complaint-by-Complaint.

- **Advisors:** An Advisor may not be called as a witness 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.
- **Questions:** Prior to the Notice of Resolution Process Interview meeting the Decision-maker will ask each of the Parties to provide a proposed list of questions to ask the other Parties and any witnesses.
 - To the extent credibility is in dispute and relevant to one or more of the allegations, questions proposed by the Parties may also explore credibility.
 - All Party questions must be posed during this phase of the process and cannot be posed later unless authorized by the Decision-maker.
 - The Decision-maker may finalize the list with the Investigator to ensure all questions are both relevant and permissible.
- **Meetings:** The Investigator will then hold individual meetings with the Parties and potential witnesses to ask the questions posed by the Decision-maker, as well as the questions proposed by the Parties that have been deemed relevant and not duplicative, including questions intended to assess credibility. These meetings will be recorded and transcribed.
 - For any question deemed not relevant or duplicative, the Investigator will provide a rationale for not asking the question, either during the recorded meeting, or in writing (typically as an Appendix to the Outcome Report).
- Typically, within three (3) business days of the last of these meetings, the recordings or transcripts of them will be provided to the Parties for their review. The Parties will then have five (5) business days to review these recordings or transcripts and propose follow-up questions to be asked by the Investigator.
- **Follow Up Questions:** The Decision-maker will review the proposed follow-up questions to determine relevance and permissibility. If deemed necessary, the Decision Maker will then meet individually with the Parties or witnesses for whom there are relevant, and not duplicative, follow-up questions. These follow-up meetings will also be recorded, and the Parties will receive the recordings or transcripts of these meetings. This final round of questioning is the last such round permitted, unless leave is granted to extend, by the Decision-maker.
- The Decision will then incorporate any new, relevant evidence and information obtained through the questioning, and follow-up meetings into the Administrative Resolution Process File.

b. The Decision-maker's Determination

- The Decision-maker will review the Final Investigation Report, all appendices, the investigation file, as well as evidence and information obtained through the Decision-maker led questioning meetings and information from the Administrative Resolution Process File.
- If the record is incomplete, the Decision-maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Parties or any witnesses, if needed.
- The Decision-maker will then review permissible evidence and apply the evidence standard to determine (make a finding) on each of the allegations and, if applicable, any attendant sanctions.

- **Timeline.** The Decision-maker's determination process typically takes about ten (10) business days, but this period can vary based on many factors and variables. The Parties will be notified of any delays.
- If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a Resolution Process at any time, and/or referring that information to another process for resolution.
- **Special rules that apply only in cases of sex harassment involving students**
 - **Impact Statements.** Prior to a determination, the EEO/504/ADA/Title IX Coordinator will also provide the Parties an opportunity to submit a written impact and/or mitigation statement. The EEO/504/ADA/Title IX Coordinator will review these statements upon receipt to determine whether there are any immediate needs, issues, or concerns, but will otherwise hold them until after the Decision-maker has made determinations on the allegations. If there are any findings of a Policy violation, the Decision-maker will request the Impact Statements from the EEO/504/ADA/Title IX Coordinator and review them prior to determining sanctions. They will also be exchanged between the Parties at that time.

c. Sanctions

Factors the Decision-maker may consider when determining sanctions and responsive actions may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the Parties
- The Respondent's acceptance of responsibility
- Any other information deemed relevant by the Decision-maker

The Decision-maker may review prior disciplinary action of any kind involving the Respondent for consideration which may demonstrate a pattern of misconduct. Such information may be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

The 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.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

1) Student Sanctions²³

The following are the common sanctions that may be imposed upon students, singly or in combination with other sanctions:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any UHSP Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either UHSP-sponsored or external counseling to better comprehend the misconduct and its effects. This may include alcohol/drug assessment and/or classes.
- *Restrictions*: A student may be restricted in their activities, including, but not limited to, restriction from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership in student organizations.
- *No-contact orders*: Implementing contact limitations (no-contact orders) between the Parties or other individuals.
- *Probation*: An official sanction for violation of institutional Policy, providing for more severe disciplinary sanctions if the student is found in violation of any institutional Policy, procedure, or directive within a specified period. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Separation from the institution, or one or more of its facilities, for a definite period of time, typically not to exceed two years, after which the student is eligible to return. Eligibility may be contingent upon satisfactory completion of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the student is eligible to return if the institution determines it is appropriate to re-enroll/readmit the student. The student is typically required to vacate institutional property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the EEO/504/ADA/Title IX Coordinator or other appropriate official. During an institution-wide suspension, the student is banned from institutional property, functions, events, and activities unless they receive prior written approval from an appropriate institutional official. This sanction may be enforced with a trespass action, as necessary.
- *Expulsion*: Permanent separation from the institution. The student is banned from institutional property, and the student's presence at any institution-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary.
- *Withholding Diploma*: UHSP may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating Policy.

²³ Recipient policies on transcript notation apply to these proceedings.

- *Revocation of Degree:* While very rarely employed, USHP reserves the right to revoke a degree previously awarded from USHP for fraud, misrepresentation, and/or other violation of USHP policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions:* In addition to, or in place of, the above sanctions, USHP may assign any other sanctions as deemed appropriate.

2) Student Group and Organization Sanctions

Organizational sanctions are included here even though organizations cannot be charged as Respondents under Title IX. UHSP may still hold a student organization accountable for Policy violations using the Resolution Processes herein, if it was clearly noted that Title IX was not applicable. Often, individuals will be charged for their role in organizational misconduct under Title IX, and the organization would be charged as collateral misconduct to the individual charges, resolved in the same process as those charges. The following are the common sanctions that may be imposed upon student organizations singly or in combination:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any UHSP Policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Loss of Privileges:* Restricted from accessing specific UHSP privileges for a specified period of time.
- *Probation:* An official sanction for violation of institutional Policy, providing for more severe disciplinary sanctions if the group or organization is found in violation of any institutional Policy, procedure, or directive within a specified period. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of UHSP funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student group or organization recognition and/or institutional support for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in UHSP-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from UHSP.
- *Expulsion:* Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Other Actions:* In addition to or in place of the above sanctions, UHSP may assign any other sanctions as deemed appropriate.

3) Employee Sanctions/Responsive/Corrective Actions

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

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, UHSP may assign any other responsive actions as deemed appropriate.

5. Notice of Outcome

Within ten (10) business days of the conclusion of the Resolution Process, the Decision-Maker provides the Parties with a written outcome notification. The outcome notification will specify the finding for each alleged Policy violation, 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, any applicable sanctions, and a detailed rationale, written by the Decision-maker, supporting the findings to the extent UHSP is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to take to request an appeal, and when the determination is considered final if neither party appeals.

The Decision-maker will provide the Parties with the outcome notification simultaneously, or without significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official UHSP records, or emailed to the Parties' UHSP-issued or designated email account. Once mailed, emailed, and/or received in person, the outcome notification is presumptively delivered.

6. Appeal of the Determination

The EEO/504/ADA/Title IX Coordinator will designate a single Appeal Decision-maker chosen from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker(s) will have been previously involved in the Resolution Process for the Complaint, including in any supportive measure or dismissal appeal that may have been heard earlier in the process.

a. Appeal Grounds

Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome. For example, substantial and material deviation from established procedures, erroneous relevance determinations or failure to objectively evaluate all relevant evidence if it affected the outcome etc. The procedural error and its impact must be explained.
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made. A summary of this new evidence, why it was not previously available, and its potential impact must be included.
- 3) The EEO/504/ADA/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 specific Complainant or Respondent that would change the outcome. The conflict of interest or bias and its impact must be explained.
- 4) The final determination by the Decision-maker is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination, only).
- 5) The sanctions imposed are substantially disproportionate to the severity of the violation and substantially outside the parameters or guidelines set by the University for this type of offense or the cumulative conduct record of the Respondent. The reasoning and evidence that the sanction was disproportionate or inappropriate must be explained (applicable to sanctions of suspension, expulsion, or termination, only).

b. Request for Appeal

Any party may submit a written request for appeal (“Request for Appeal”) to the EEO/504/ADA/Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the Request for Appeal does not provide information that meets the grounds in this Policy, the request will be denied by the Appeal Decision-maker, and the Parties (and their Advisors, if applicable) will be simultaneously notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisors, the EEO/504/ADA/Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties (and their Advisors, if applicable), the EEO/504/ADA/Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal the initial decision at this time. If so, that Request for Appeal will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in this Policy and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the EEO/504/ADA/Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties will be notified accordingly, in writing.

No party may submit any new Requests for Appeal after this time. The Appeal Decision-maker will collect any additional information needed, all documentation regarding the approved appeal grounds, and the subsequent responses and then promptly render a decision.

c. Appeal Determination Process

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 Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.

An appeal is not an opportunity for the Appeal Decision-makers to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).

The Appeal Panel or Decision-maker may consult with the EEO/504/ADA/Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The EEO/504/ADA/Title IX Coordinator will maintain documentation of all such consultation.

d. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the EEO/504/ADA/Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new determination with new Pool members serving in the Investigator and Decision-maker roles.

A Notice of Appeal Outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which UHSP is permitted to share according to federal or state law, and the rationale supporting the essential findings to the extent UHSP is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the Parties as indicated in official institutional records, or emailed to the Parties' UHSP-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, the Appeal Outcome will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.

If a remand results in a new determination that is different from the appealed determination, that new determination can be appealed, once, on any of the five available appeal grounds.

e. Sanction Status During the Appeal

Any sanctions imposed as a result of the determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal procedures (detailed above) for a “show cause” meeting on the justification for doing so must be permitted within two (2) business days of implementation.

7. Revision of These Procedures

These procedures succeed any previous procedures addressing discrimination, harassment, and retaliation for incidents occurring on or after August 1, 2024. The Chief EEO/504/ADA/Title IX Administrator will regularly review and update these procedures. UHSP reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If governing laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent governing laws or regulations or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

These procedures are effective August 1, 2024.

BASED ON THE ATIXA 2024 ONE POLICY, ONE PROCEDURE (1P1P) MODEL.

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Responsibilities

Identified throughout the document. Not summarized here.

Resources (required for any resource referred to in the policy)

Pregnancy and Related Conditions Policy

[Policy Against Discrimination, Harassment, Sexual Assault and Relationship Violence - Interim](#)
[Policy Against Sexual Harassment in an Educational Program or Activity Title IX – Interim](#)

Policy Contacts

<u>Name</u>	<u>Contact Information</u>
Rebecca Jones	Rebecca.Jones@uhsp.edu
Daniel Bauer	Daniel.Bauer@uhsp.edu

POLICY APPROVALS

POC: POC Chair Signature: Date:	<input type="checkbox"/> Approved as to Form	<input type="checkbox"/> Not Approved	
Policy Sponsor: Signature: Date:	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	
President: Signature: Date:	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	
Board of Trustees: Chair Signature: Date:	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	<input type="checkbox"/> Not Applicable

APPENDIX A: DEFINITIONS

The following definitions apply to the Equal Employment, Harassment and Nondiscrimination Policy.

<u>Term</u>	<u>Definition</u>
Advisor	In cases involving sex-harassment complaints with students as parties, Advisors are allowed. Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings, the Resolution Process and advise the party on that process.
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.
Clery Act	Requires colleges and universities to report campus crime data, support victims of violence, and publicly outline the policies and procedures they have put into place to improve campus safety.
Complainant	A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, retaliation, or Other Prohibited Conduct 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 Recipient's education program or activity at the time of the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct.
Complaint	An oral or written request to UHSP that can objectively be understood as a request for UHSP to investigate and make a determination about the alleged Policy violation(s).
Confidential Employee	<ul style="list-style-type: none"> • 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 Recipient has designated as confidential under this Policy for the purpose of providing services to persons related to discrimination, harassment, retaliation, or Other Prohibited Conduct. 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, retaliation, or Other Prohibited Conduct 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, retaliation, or Other Prohibited Conduct. The employee's confidential status

	only applies with respect to information received while conducting the study.
Coordinator	The person with primary responsibility for overseeing and enforcing the Equal Employment, Harassment and Nondiscrimination policy. As used in these policies and procedures, the “Coordinator” also Deputy Coordinator, or includes their designee(s).
Day	A business day when UHSP 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 Recipient exercises substantial control over the context in which the discrimination, harassment, retaliation, and/or Other Prohibited Conduct occurs and also includes any building owned or controlled by a student organization that the Recipient officially recognizes.
Employee	A person employed by UHSP 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 EEO/504/ADA/Title IX Coordinator 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 UHSP 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 UHSP receives Notice of conduct that reasonably may constitute harassment, discrimination, retaliation, or Other Prohibited Conduct in its Education Program or Activity.
Mandated Reporter	A UHSP employee who is obligated by Policy to share Knowledge, Notice, and/or reports of discrimination, harassment, retaliation, and/or Other Prohibited Conduct with the appropriate Coordinator.

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²⁴ 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.

²⁵ The Coordinator designated to receive information from Mandated Reporters may vary depending upon the type of alleged discrimination, harassment, or retaliation (e.g., on the basis of sex, on the basis of race, on the basis of disability).

Nondiscrimination Team	The EEO/504/ADA/Title IX Coordinator(s), any deputy coordinators, and any member of the Resolution Process Pool
Notice	When an employee, student, or third party informs the Coordinator of the alleged occurrence of discriminatory, harassing, retaliatory, and/or Other Prohibited Conduct.
Parties	The Complainant(s) and Respondent(s), collectively.
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 UHSP Policy.
Relevant Evidence	Evidence that may aid a Decision-maker in determining whether the alleged discrimination, harassment, retaliation, or Other Prohibited Conduct 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 UHSP's Education Program and Activity.
Resolution Process	The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, or Administrative Resolution Process.
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, or Other Prohibited Conduct.
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 UHSP to ensure ultimate oversight of compliance with Title IX and UHSP's Title IX program. References to the Coordinator throughout the Policy may also encompass a designee of the Coordinator for specific tasks.

APPENDIX B: RESOLUTION PROCESS ADMINISTRATOR POOL

For Complaints involving:

- Discrimination
- Discriminatory Harassment (other than sex-based)
- Other Prohibited Conduct under this Policy

	Respondent =		
	Student	Faculty Employee	Staff, Student Employee, or Other
Intake and Initial Guidance	See EEO/504/ADA/Title IX Coordinator or Deputy	See EEO/504/ADA/Title IX Coordinator or Deputy	See EEO/504/ADA/Title IX Coordinator or Deputy
Informal Resolution Facilitator	Hodge, Harlan (Director, Diversity)	Hodge, Harlan (Director, Diversity)	Hodge, Harlan (Director, Diversity)
Investigator	Jones, Rebecca (Assistant Vice President, Student Success & Wellness) Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator)	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator) Whitted, Erica (Associate Director, Human Resources) Warner, Linda (Human Resources Business Partner)	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator) Whitted, Erica (Associate Director, Human Resources) Warner, Linda (Human Resources Business Partner)
EEO/504/ADA/ Coordinator	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator)	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator)	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator)
Deputy EEO/504/ADA/ Coordinator	Jones, Rebecca (Assistant Vice President, Student Success & Wellness)	Whitted, Erica (Associate Director, Human Resources)	Whitted, Erica (Associate Director, Human Resources)
Decision-Maker and Decision-maker for challenges to emergency removal and supportive measures	Friedhoff, AJ (Director, Student Engagement and Leadership)	Dean for Respondent	University Leadership Team for Respondent
Appeal Decision-Maker and Appeal of Dismissal Decision-maker	Butler, Isaac (Vice President, Campus Life and Chief Diversity Officer)	Gleason, Brenda (Interim Chief Academic Officer)	Sass, Michael (Chief of Staff)

For Complaints involving:

- Sex-based Harassment

Respondent =			
	Student	Faculty Employee	Staff, Student Employee, or Other
Advisor	TDB	TBD	TDB
Intake and Initial Guidance	See Title IX Coordinator or Deputy	See Title IX Coordinator or Deputy	See Title IX Coordinator or Deputy
Informal Resolution Facilitator	Hodge, Harlan (Director, Diversity)	Hodge, Harlan (Director, Diversity)	Hodge, Harlan (Director, Diversity)
Investigator	Jones, Rebecca (Assistant Vice President, Student Success & Wellness) Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator)	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator) Whitted, Erica (Associate Director, Human Resources) Warner, Linda (Human Resources Business Partner)	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator) Whitted, Erica (Associate Director, Human Resources) Warner, Linda (Human Resources Business Partner)
Title IX Coordinator	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator)	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator)	Bauer, Daniel (Assistant Vice President, Human Resources/Title IX Coordinator)
Deputy Title IX Coordinator	Jones, Rebecca (Assistant Vice President, Student Success & Wellness)	Whitted, Erica (Associate Director, Human Resources)	Whitted, Erica (Associate Director, Human Resources)
Decision-Maker	Friedhoff, AJ (Director, Student Engagement and Leadership)	Dean for Respondent	University Leadership Team for Respondent
Appeal Decision-Maker	Butler, Isaac (Vice President, Campus Life and Chief Diversity Officer)	Gleason, Brenda (Chief Academic Officer)	Sass, Michael (Chief of Staff)

APPENDIX D: STATEMENT OF THE PARTIES' RIGHTS

Under this Policy and procedures, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited discrimination, harassment, retaliation, and other prohibited behaviors, when reported in good faith to UHSP officials.
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the specific misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated Policies and procedures, and possible sanctions.
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations.
- Be informed in advance of any UHSP public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- Have all personally identifiable information protected from UHSP's release to the public without consent, except to the extent permitted by law.
- Be treated with respect by UHSP officials.
- Have UHSP Policy and these procedures followed without material deviation.
- Voluntarily agree to resolve allegations under this Policy through Informal Resolution without UHSP pressure, if Informal Resolution is approved by the Coordinator.
- Not be discouraged by UHSP officials from reporting discrimination, harassment, retaliation, and other prohibited behavior to both on-campus and off-campus authorities.
- Be informed of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by UHSP in notifying such authorities, if the party chooses. This also includes the right to not be pressured to report.
- Have allegations of violations of this Policy responded to promptly and with sensitivity by UHSP law enforcement and/or other UHSP officials.
- Be informed of available supportive measures, such as counseling, advocacy, health care, student financial aid, visa and immigration assistance, and/or other services, both on-campus and in the community.
 - A UHSP-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
 - Be informed of available assistance in changing academic, living, and/or employment situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are

reasonably available. No formal report, or investigation, either institutional or criminal, needs to occur for this option to be available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
 - Assistance from UHSP staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation assistance
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and provide a pro-rated refund
 - Rescheduling or adjusting an exam, paper, and/or assignment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Arranging special seating assignments in the classroom.
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus public safety escorts
 - Alternative course completion options
-
- Have UHSP maintain supportive measures for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair UHSP's ability to provide the supportive measures.
 - Receive sufficiently advanced written notice of any UHSP meetings or interviews involving another party, when possible.
 - Identify and have the Investigator(s) and/or Decision-maker question relevant available witnesses.
 - Provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant and permissible by the Investigator(s)/Decision-maker, may be asked of any party or witness.
 - Have Complainant's inadmissible sexual interests/prior sexual history or any Party's irrelevant character evidence excluded by the Decision-maker.
 - Access the relevant evidence obtained and respond to that evidence.
 - A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
 - Receive a copy of all relevant and permissible evidence obtained during the investigation, subject to privacy limitations imposed by federal and state law and be given ten (10) business days to review and comment on the evidence.
 - The right to receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least seven (7) business days to review the report prior to the determination.
 - Be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.

- Regular status updates on the investigation and/or Resolution Process.
- Have reports of alleged Policy violations addressed by Resolution Process Pool members who have received relevant annual training as required by law.
- Preservation of confidentiality/privacy, to the extent possible and permitted by law.
- Meetings and/or interviews that are closed to the public.
- Petition that any UHSP representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- Apply the appropriate standard of proof, [preponderance of the evidence preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all relevant and permissible evidence.
- Be present, including presence via remote technology, during all testimony given and evidence presented during any hearing.
- Have an impact and/or mitigation statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- Be promptly informed of the Resolution Process finding(s) and sanction(s) (if any) and be given a detailed rationale of the decision (including an explanation of how credibility was assessed) in a written outcome letter delivered to the Parties simultaneously (without undue delay).
- Be informed in writing of when a UHSP decision is considered final and any changes to the Final Determination or sanction(s) that occur post outcome letter delivery.
- Be informed of the opportunity to appeal the Resolution Process finding(s) and sanction(s), and the procedures for doing so in accordance with UHSP's grounds for appeal.
- A fundamentally fair resolution as defined in these procedures.

APPENDIX E: PRIVACY, PRIVILEGE, AND CONFIDENTIALITY

For the purpose of this Policy, the terms privacy, confidentiality, and privilege have distinct meanings.

- **Privacy.** Means that information related to a complaint will be shared with a limited number of UHSP employees who “need to know” to assist in providing supportive measures or evaluating, investigating, or resolving the Complaint. All employees who are involved in UHSP’s response to Notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with federal and state law.
- **Confidentiality.** Exists in the context of laws or professional ethics (including Title IX) that protect certain relationships, including clinical care, mental health providers, and counselors. Confidentiality also applies to those designated by UHSP as Confidential Employees for purposes of reports under this Policy, regardless of legal or ethical protections. When a Complainant shares information with a Confidential Employee, the Confidential Employee does not need to disclose that information to the Title IX Coordinator. The Confidential Resource will, however, provide the Complainant with the Title IX Coordinator’s contact information, assist the Complainant in reporting, if desired, and provide them with information on how the <<office>> can assist them. With respect to Confidential Employees, information may be disclosed when: (1) the reporting person gives written consent for its disclosure; (2) there is a concern that the person will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or persons with disabilities. Non-identifiable information may be shared by Confidential Employees for statistical tracking purposes as required by the Clery Act/Violence Against Women Act (VAWA). Other information may be shared as required by law.
- **Privilege.** Exists in the context of laws that protect certain relationships, including attorneys, spouses, and clergy. Privilege is maintained by a provider unless a court orders release or the holder of the privilege (e.g., a client, spouse, parishioner) waives the protections of the privilege. UHSP treats employees who have the ability to have privileged communications as Confidential Employees.

UHSP reserves the right to determine which UHSP officials have a legitimate educational interest in being informed about student-related incidents that fall under this Policy, pursuant to FERPA.

Only a small group of officials who need to know will typically be told about the Complaint. Information will be shared as necessary with Investigators, Decision-makers, Appeal Decision-makers, witnesses, the Parties, and the Parties' Advisors. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties' rights and privacy, and release is governed by the institution's unauthorized disclosure policy.

UHSP may contact students' parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student prior to doing so.

APPENDIX F: VIOLENCE RISK ASSESSMENT (VRA)

Threat assessment is the process of assessing the actionability of violence by a person against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to describe assessment of any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Implementing a VRA requires specific training. It is typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct professionals, and/or other Behavioral Intervention Team (BIT) (sometimes known as CARE team) members.

A VRA occurs in collaboration with the BIT, CARE team, and/or threat assessment team and must be understood as an ongoing process, rather than as a single evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations. It is supported by research from law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use(s) an evidence-based process consisting of:

1. An appraisal of **risk factors** that escalate the potential for violence.
2. A determination of stabilizing influences, or **protective factors**, that reduce the risk of violence.
3. A contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of the threat; fixation and focus on target; grievance collection; and action and time imperative for violence.
4. The application of **intervention and management** approaches to reduce the risk of violence.

To assess a person's level of violence risk, the Administrator will initiate the VRA process through the UHSP Care Team. The Care Team will assign a trained person(s) to perform the assessment, according to the specific nature of the complaint.

The assessor(s) will follow the process for conducting a VRA as outlined in the Care Team manual and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

Some examples of formalized approaches to the VRA process include The NABITA Risk Rubric,²⁸ The Structured Interview for Violence Risk Assessment (SIVRA-35),²⁹ Violence Risk Assessment of the Written Word (VRAWW),³⁰ Workplace Assessment of Violence Risk (WAVR-21),³¹ Historical Clinical Risk Management (HCR-20),³² and MOSAIC.³³

The VRA is conducted independently from the Resolution Process, informed by it, but free from outcome pressure. The person(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The Care Team member(s) conduct a VRA process and makes a recommendation to the Administrator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to the health and/or safety of a person or the community.

In some circumstances, the Administrator may determine that a VRA should be conducted by the Care Team as part of the initial evaluation of a Complaint under this Policy. A VRA can aid in critical and/or required determinations, including:

1. Whether to remove the Respondent on an emergency basis because of an immediate threat to a person or the community's health/safety (Emergency Removal)
2. Whether the Administrator should pursue/sign a Complaint absent a willing/able Complainant
3. Whether the scope of an investigation should include an incident, and/or pattern of misconduct, and/or climate of discrimination or harassment
4. To help identify potential predatory conduct
5. To help assess/identify grooming behaviors
6. Whether it is reasonable to try to resolve a Complaint through Informal Resolution, and if so, what approach may be most successful
7. Whether to permit the Respondent to voluntarily withdraw
8. Whether to impose transcript notation or communicate with a transfer institution about a Respondent
9. Assessment of appropriate sanctions/remedies (to be applied post-determination)
10. Whether a Clery Act Timely Warning/Trespass order/Persona Non Grata is needed

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Institutions may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

APPENDIX H: TITLE IX POLICY STATEMENT SAMPLE TEMPLATE

University of Health Sciences and Pharmacy in St. Louis (UHSP) adheres to all federal, state, and local civil rights laws prohibiting discrimination and harassment in employment and education. UHSP does not discriminate in its admissions practices, employment practices, or educational programs or activities on the basis of age, color, disability, ethnicity, race, sex, genetic information, national origin, pregnancy or related conditions, religion, military status or other protected class. As a recipient of federal financial assistance for education activities, UHSP is required by Title IX of the Education Amendments of 1972 (Title IX) to ensure that all of its education programs and activities do not discriminate on the basis of sex. Sex includes sex, sex stereotypes, sex characteristics, gender identity, sexual orientation, and pregnancy or related conditions. Discrimination and harassment on the basis of these covered protected classes is prohibited under UHSP Policy, including sex-based harassment, sexual assault, dating and domestic violence, stalking, quid pro quo harassment, hostile environment harassment, disparate treatment, and disparate impact.

UHSP also prohibits retaliation against any person opposing discrimination or harassment or participating in any internal or external investigation or complaint process related to allegations of discrimination or harassment under the policy.

Any person may report discrimination (whether the person reporting is alleged to have experienced the conduct) in person, by mail, by telephone, by video, or by email, using the contact information listed in the policy.

Questions regarding Title IX, including its application and/or concerns about noncompliance, should be directed to the EEO/504/ADA/Title IX Coordinator. For a complete copy of the Policy or more information, please visit <<link>> or contact the Title IX Coordinator.

Title IX Coordinator

Daniel Bauer
Assistant Vice President, Human Resources
South Residence Hall, Room 1240C
314-446-8308
Daniel.Bauer@uhsp.edu

Title IX Deputy for Students

Rebecca Jones
Assistant Vice President, Student Success and Wellness
Recreation and Student Center (RAS), Room 410
314-446-8352
Rebecca.Jones@uhsp.edu

Title IX Deputy for Employees

Erica Whitted
Associate Director, Human Resources
South Residence Hall, Room 1240A
314-446-8315
Erica.Whitted@uhsp.edu

A person may also file a complaint with the appropriate federal, state, or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be the U.S. Department of Education Office for Civil Rights (OCR), the Department of Justice, and/or another appropriate federal or state agency.

Concerns about UHSP's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

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

Within any Resolution Process related to this Policy, UHSP provides reasonable accommodations to persons with disabilities and religious accommodations, when that accommodation is consistent with federal and state law.

Short/Blurb Format:

UHSP does not discriminate in its employment practices or in its educational programs or activities on the basis of sex.³⁴ UHSP also prohibits retaliation against any person opposing discrimination or participating in any internal or external discrimination investigation or complaint process. Reports of misconduct, questions regarding Title IX, and concerns about noncompliance should be directed to the Title IX Coordinator. For a complete copy of the Policy or for more information, please contact the Title IX Coordinator at <<link>> or address any complaints to the Assistant Secretary of Education within the U.S. Department of Education Office for Civil Rights (OCR).

APPENDIX J: TRAINING FOR MEMBERS OF THE RESOLUTION PROCESS ADMINISTRATOR POOL

Resolution Process Pool members receive annual training related to their respective roles. This training may include, but is not limited to:

- The scope of UHSP Equal Opportunity, Harassment and Nondiscrimination Policy
- UHSP's Resolution Process
- How to conduct investigations and decision-maker meetings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias and confirmation bias
- Treating Parties equitably
- Disparate treatment
- Disparate impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all prohibited conduct

- How to conduct an investigation and grievance process, including administrative resolutions, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or for Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at an Administrative Process
- Issues of relevance of questions and evidence
- Issues of relevance and creating an investigation report that fairly summarizes relevant and not impermissible evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

Additional Training Elements Specific to Title IX

All investigators, Decision-makers, and other persons who are responsible for implementing UHSP's Title IX policies and procedures will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter.

Materials will not rely on sex stereotypes. Training topics include, but are not limited to:

- How to conduct a sex discrimination resolution process consistent with the Policy, including issues of disparate treatment, disparate impact, sex-based harassment, quid pro quo, hostile environment harassment, and retaliation
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the Title IX Regulations
- Training for Informal Resolution facilitators on the rules and practices associated with UHSP's Informal Resolution process
- The role of the Title IX Coordinator
- Supportive Measures
- Clery Act/VAWA requirements applicable to Title IX

- UHSP's obligations under Title IX
- How to apply definitions used by UHSP with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with Policy
- Reasonable modifications and specific actions to prevent discrimination and ensure equal access for pregnancy or related conditions
- Any other training deemed necessary to comply with Title IX

APPENDIX K: 2024 TITLE IX OFFENSE REGULATORY DEFINITIONS

1) Sexual Assault

Any sexual act, including Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse.²⁶

a. Rape:

- Penetration,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

2. Sodomy

- Oral or anal penetration
- Of the Complainant by the Respondent
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

3. Sexual Assault with an Object

- Respondent's use of an object or instrument
- to unlawfully penetrate, however slightly, the genital or anal opening
- of the body of the Complainant,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

4. Fondling:

- The touching of the private body parts (breasts, buttocks, groin) of the Complainant by the Respondent
- or causing the Complainant to touch the Respondent's private body parts
- intentionally for a sexual purpose
- without the consent of the Complainant, including instances where the Complainant is incapable of giving consent
 - because of their age or

²⁶ This definition of sexual assault does not constitute a chargeable offense under the Policy. It is a description encompassing the six chargeable offenses listed below it.

- because of their temporary or permanent mental incapacity or physical incapacity.

5. Incest:

- f. Nonforcible sexual intercourse between persons who are related to each other
- g. within the degrees wherein marriage is prohibited by <<state>> law.

6. Statutory Rape:

- h. Nonforcible sexual intercourse with a person
- i. who is under the statutory age of consent of the <<state>>.

2) Dating Violence:

- Violence²⁷ committed by a Respondent,
- who is in or has been in a social relationship of a romantic or intimate nature with the Complainant; **and**
- where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - length of the relationship
 - type of relationship
 - frequency of the interaction between the Parties involved in the relationship.

3) Domestic Violence:

- Felony or misdemeanor crimes committed by a person who:
 - is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of <<state>> or a person similarly situated to a spouse of the Complainant;
 - is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
 - shares a child in common with the Complainant; **or**
 - commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of <<state>>.

4) Stalking:

- engaging in a course of conduct²⁸ on the basis of sex, that is,

²⁷ For purposes of this Policy, violence is defined as intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

²⁸ For purposes of this definition, “A ‘course of conduct’ requires that there be more than one incident and the conduct must be directed at a specific person. Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to, watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. (Federal Register, Vol 89, No. 83, 04/29/2024, p. 33523). Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.

- directed at a specific person that would cause a reasonable person²⁹ to:
 - fear for the person's safety, or
 - the safety of others; or
 - suffer substantial emotional distress.³⁰

²⁹ Reasonable person is an objective standard meaning a person in the Complainant's shoes (having similar characteristics/demographics to the Complainant).

³⁰ In the context of stalking, a Complainant is not required to obtain medical or other professional treatment, and counseling is not required to show substantial emotional distress.