# AMERICAN UNIVERSITY STUDENT CONDUCT CODE

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Appendix A: Discrimination and Non-Title IX Sexual Misconduct Policy

Appendix B: Title IX and Sexual Harassment Policy

Appendix C: Interim Suspension Policy
AMERICAN UNIVERSITY
STATEMENT OF COMMON PURPOSE

The central commitment of American University is to the development of thoughtful, responsible human beings in the context of a challenging yet supportive academic community.

PREAMBLE

To achieve its ends, an academic community requires the knowledge, integrity, and civility of its members. In turn, the community helps individuals develop habits and values that will enable them to achieve personal satisfaction and to contribute to a better world. This Student Conduct Code is designed to support a safe, honest, and inclusive community with a shared commitment to acting with mutual respect and forming the highest standards of ethics and morals among its members. It fosters the university’s commitment to excellence, equity, and inclusion and affirms the shared values that make community life possible. Students with alleged violations of the Student Conduct Code should contact Student Conduct and Conflict Resolution Services to receive further information on conduct procedures.
I. AUTHORITY FOR STUDENT DISCIPLINE

Ultimate authority for all university policy is vested in the Board of Trustees of American University. Non-academic disciplinary authority has been delegated by the president to the Vice President of Campus Life to implement student conduct policies and take all necessary and appropriate action to protect the safety and well-being of the campus community.

The Board of Trustees reserves the right to review and to take any action it deems necessary in any conduct case. In practice, the resolution of non-academic conduct cases may involve an array of university administrators and committees of students, staff, and faculty. Students are asked to assume positions of responsibility in the university conduct system in order to contribute their skills and insights to the resolution of conduct cases. The university reserves the right to amend this Student Conduct Code at any time according to established procedures.

II. RESPONSIBILITIES AND RIGHTS

Every student has a duty to understand and abide by the rules and regulations of the university. Responsibilities and Rights related to violations of the university’s Discrimination and Non-Title IX Sexual Misconduct Policy can be found in Section XX.A. and B., as well as Appendix A. Responsibilities and Rights related to violations of the university’s Title IX Sexual Harassment Policy can be found in Section XX.C and Appendix B. Ignorance of a rule or regulation will not be an acceptable reason to find a student not responsible. Students accused of conduct violations are entitled to the following procedural protections:

1. to be informed of the allegations against them;
2. to request an informal resolution of the case;
3. to be allowed reasonable time to prepare a response;
4. to hear and respond to evidence upon which an allegation is based;
5. to present relevant witnesses and ask questions of the witnesses at disciplinary hearings;
6. to be assured of confidentiality according to the terms of the university policy on Confidentiality of Student Records;
7. to request that any person conducting a disciplinary proceeding or serving as a Conduct Council member or hearing administrator, or conference officer, be disqualified on the grounds of conflict of interest;
8. to be provided with an opportunity to review these rights before any disciplinary proceeding;
9. to be considered not responsible for the allegations until found responsible based on what is more likely than not to have occurred (by a preponderance of the evidence);
10. to have reasonable access to the case file prior to and during the disciplinary conference or hearing;
11. to have an advisor as defined in Section XII of this Student Conduct Code; and
12. to appeal the outcome of the case according to Section XVIII of this Student Conduct Code.
III. SCOPE OF AUTHORITY

The Student Conduct Code (“Code”) is the university’s policy for non-academic conduct offenses and applies to all students, recognized student organizations, and provisionally recognized student groups at American University, including students at the Washington College of Law (“WCL”). However, alleged prohibited conduct by WCL students will not be subject to the resolution mechanism described in this Code, except in cases involving conduct prohibited by the university’s Discrimination and Non-Title IX Sexual Misconduct Policy and/or the university’s Title IX Sexual Harassment Policy. Such violations will be resolved using the procedures set forth in Section XX of this Code. All other alleged prohibited conduct by WCL students will be resolved according to the procedures set forth in the Honor Code for the Washington College of Law.

The university retains authority over alleged infractions that occur during a student’s matriculation or attendance at the university, including orientation programs and activities, winter, spring, and summer breaks, and periods of leave of absence from the university including during disciplinary suspensions. Therefore, a proceeding may be scheduled after a student has completed a program, withdrawn, or graduated from the university. Generally, the university will take disciplinary action for on-campus infractions of the Code. However, the university may take disciplinary action for off-campus infractions of the Code when a student’s behavior threatens or endangers the safety and well-being of the campus community; when a student is the subject of a violation of local, state, or federal law; or when, in the judgment of university officials, a student’s alleged misconduct has a detrimental impact on the university’s functions and operations, pursuit of its mission, or on the well-being of its community or neighbors.

IV. VIOLATIONS OF LAW AND UNIVERSITY REGULATIONS

Students may be accountable both to civil authorities and to the university for acts that constitute violations of law and of this Code. Disciplinary action at the university will normally proceed while criminal proceedings are pending and will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced.

V. DEFINITIONS

A. “Aggravated violation” – a violation that resulted or could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the stability and continuance of normal university or university-sponsored activities.

B. “Bias Incident” – an act targeted at a person, group, or property expressing bias or hostility on the basis of real or perceived: race, color, national origin, religion, sex, pregnancy or parenting, age, sexual orientation, disability, marital status, personal appearance, gender identity and expression, family responsibilities, political affiliation, source of income, veteran status, an individual’s genetic information or any other bases under federal and/or local law. (See Section XVII. Sanctions for considerations of bias incidents in the sanctioning process.)

C. “Coerce” – to force one to act based on fear of harm to self or others. Means of coercion may include, but are not limited to, pressure, expressed or implied threats, intimidation, or the threat or use of physical force. Coercion also includes forcing a person to act by impairing the faculties of that person through the administration of a substance.

D. “Complainant” – in cases under Section XX, a student, staff, or faculty member who has filed a complaint indicating that a student may have violated the university’s Discrimination and Non-Title IX Sexual Misconduct
Policy and/or the Title IX Sexual Harassment Policy. A complainant may include students, staff, faculty, contractor, or visitor to the university or university sponsored activities.

E. “Complaint” – a report of alleged misconduct filed by a member of the AU community.

F. “Consent” – words or conduct indicating a freely given agreement to have sexual intercourse or to participate in sexual activities. Silence or lack of resistance does not imply consent. Consent for one sexual act does not imply consent for any subsequent sexual act and consent must be on-going. Sexual contact will be considered “without consent” if no clear consent, verbal or non-verbal is given; if inflicted through force, threat of force, or coercion; or if inflicted upon a person who is unconscious or who otherwise reasonably appears to be without the mental or physical capacity to consent. (See definition of “incapacitation.”) The age of consent in the District of Columbia is sixteen (16) years of age. Individuals younger than 16 years of age are legally incapable of giving consent to sexual activity with an individual who is four or more years older. (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy).

G. “Dating Violence” – violence committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the other person; and (ii) where existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy)

H. “Disciplinary conference” – a proceeding in which a hearing officer meets with a student to resolve an alleged violation of the Code.

I. “Disciplinary hearing” – a proceeding in which a panel of the Conduct Council is convened with a student to resolve an alleged violation of the Code.

J. “Discrimination” - discrimination occurs when an individual suffers an adverse employment, academic, or other decision based on an individual’s Protected Bases. (See Discrimination and Non-Title IX Sexual Misconduct Policy).

K. “Discriminatory Harassment” - unwanted verbal, visual, or physical conduct that denigrates or shows hostility against an individual protected by the university’s Discrimination and Non-Title IX Sexual Misconduct Policy (e.g. race, national origin), when the conditions outlined are present: 1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual’s education, employment or participation in other university programs and/or activities or is used as the basis for university decisions affecting the individual (often known as “quid pro quo” harassment); or 2) such conduct creates a hostile environment. (See “Hostile Environment” definition). (See Discrimination and Non-Title IX Sexual Misconduct Policy).

L. “Discriminatory Harassment under Title IX”- unwelcome conduct determined by a reasonable person to be so severe, and objectively offensive that it effectively denies a person equal access to the university’s education program or activity. (See Title IX Sexual Harassment Policy).

M. “Disorderly” – conduct which a reasonable person, under similar circumstances, should be expected to know would disturb the peace.

N. “Distribution”—any form of sale, exchange, or transfer.

O. “Domestic Violence” – violence committed by a current or former spouse or intimate partner of the person, by an individual with whom the person shares a child in common, by an individual who is cohabitating with or has cohabited with the person as a spouse or an intimate partner, by an individual similarly situated to a spouse of the
person under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any individual against the person who is protected from that individual’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy)

P. “Education Program or Activity”—every program or activity under the operations of the university, whether on or off campus. Education program or activity includes locations, events, or circumstances in which the university exercised substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the university (See Title IX Sexual Harassment Policy).

Q. “Fondling”—the touching of the private body parts of another person for the purpose of sexual gratification without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy).

R. “Group” – an association of persons that has applied for recognition as a student organization, but is not yet formally recognized by the university.

S. “Harassment” – an intimidating, severe, hostile, or coercive act – whether physical, verbal, electronic (including, but not limited to: e-mail, social media, instant messaging, etc.), which is intentional and/or persistent.

T. “Hazing” – an intentional act or method of initiation into a group, club, organization, or team that subjects another person, whether voluntarily or involuntarily, to conduct that may injure, abuse, humiliate, harass, or intimidate that person. Examples of hazing can be found in American University’s Hazing Policy.

U. “Hearing Administrator” – a staff member who conducts disciplinary hearings as set forth in Section XVI of this Code.

V. “Hearing Officer” – a staff member who conducts disciplinary conferences as set forth in Section XV of this Code.

W. “Hostile Environment”–exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the university’s education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. When evaluation whether a hostile environment exists, the university will consider the totality of known circumstances, including but not limited to:

   a. The frequency, nature and severity of the conduct;
   b. Whether the conduct was physically threatening;
   c. The effect of the conduct on the complainant’s mental or emotional state;
   d. Whether the conduct was directed at more than one person;
   e. Whether the conduct arose in the context of other discriminatory conduct;
   f. Whether the conduct unreasonably interfered with the complainant’s educational or work performance and/or university programs and activities; and
   g. Whether the conduct implicates concerns related to academic freedom or protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. (See Discrimination and Non-Title IX Sexual Misconduct Policy).
X. "Incapacitation" - a temporary or permanent state in which an individual is unable to give consent to sexual contact due to mental, developmental, or physical impairment, to include incapacitation voluntarily or involuntarily, from alcohol or drug use. States of incapacitation include, but are not limited to: sleep, unconsciousness, intermittent consciousness, or any other state where an individual is unaware that sexual contact is occurring. Where alcohol or drug use is involved, incapacitation is a state beyond mere intoxication, or impairment of judgment. (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy).

Y. "Incest" - non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy).

Z. "Informal Resolution" - a method to resolve a conduct complaint either through mediation or a restorative process. In order for a complaint to be resolved through informal resolution, both parties must agree to participation in informal resolution. (See XIV.D. for types of complaints that will not be resolved informally in lieu of a formal conduct process).

AA. "Institution" and "University" – American University and all of its undergraduate and graduate departments and programs.

BB. "Investigator" – an individual who conducts a fact-finding investigation into incidents related to cases involving conduct prohibited by the university's Discrimination and Non-Title IX Sexual Misconduct Policy and/or the university’s Title IX Sexual Harassment Policy.

CC. "Organization" – an association of persons that is formally recognized by the university as a student organization.

DD. "Physical Assault" – unwanted physical contact or the use of physical force to threaten or cause physical injury, pain, or illness.

EE. "Preponderance of the Evidence" – a measure of proof that a reasonable person would accept as “more likely than not” that a fact is true or that an incident occurred.

FF. "Rape" – carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. (Also see “consent” and “coerce.”) (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy).

GG. "Reckless" – conduct which a reasonable person, under similar circumstances, should be expected to know would create a substantial risk of harm to persons or property or which would otherwise be likely to result in interference with normal university or university-sponsored activities.

HH. "Relevant" – related to the charges at hand. Relevant information may be excluded by a hearing officer or administrator during a disciplinary conference or hearing if it is unfairly prejudicial.

II. "Respondent" – the student/student organization, or student group, who allegedly violated non-academic policies.

JJ. "Retaliation" – an adverse action or other form of negative treatment, including, but not limited to, intimidation, threats, coercion, discrimination, or harassment, carried out in response to a good-faith reporting of,
or opposition to, discrimination, harassment, or related misconduct; an individual or group’s participation, including testifying or assisting in the university’s grievance process or response to formal complaint.

KK. “Sanctioning Panel” – a Sanctioning Panel is comprised of three (3) Conduct Council members including one (1) student and two (2) faculty/staff members.

LL. “Sanctioning Panel Administrator” – a staff member who conducts Sanctioning Panels as set forth in Section XX of this Code.

MM. “Sexual assault” – any sexual act directed against another person, without consent of the person, including instances in which the person is incapable of giving consent. (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy).

NN. “Sexual assault with an object”-sexual assault with an object is the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the person, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy).

OO. “Sexual exploitation” – taking sexual advantage of another, for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples include, but are not limited to: recording, photographing or transmitting sexual photos, sounds, images or other information; voyeurism; indecent exposure; prostituting or soliciting another person; inducing incapacitation to commit acts of sexual misconduct; knowingly exposing another person to sexually transmitted infections (STI) or human immunodeficiency virus (HIV). (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy).

PP. “Sodomy”-is the oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. (See Title IX Sexual Harassment Policy and Discrimination and Non-Title IX Sexual Misconduct Policy).

QQ. “Stalking” – engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for their safety, or the safety of others; or (ii) suffer substantial emotional distress. Acts that constitute stalking may include, but are not limited to: direct or indirect actions, including actions through a third-party by any method, device, or means to follow, monitor, observe, surveil, threaten, or communicate to or about a person; or that interferes with a person’s property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

RR. “Underground Group” – a formerly recognized student organization or group that has lost or been denied university registration or recognition on a temporary or permanent basis as a consequence of responsibility for Code and/or other policy violations.

SS. “University premises” – buildings and grounds owned, leased, operated, controlled, or supervised by the university.

TT. “University-sponsored activity” – any activity on or off university premises that is specifically initiated or supervised by the university.

UU. “Weapon” – firearms, fireworks, explosives, metal knuckles, knives, or any other instrument designed or used to inflict injury to person or property.
VI. PROHIBITED CONDUCT

This Code is not written with the specificity of a criminal statute, nor is it intended to cover every instance of potentially prohibited conduct. American University expects its students, wherever they are, to adhere to high standards of honor and good citizenship and to conduct themselves in a responsible manner that brings credit to themselves and the university. The following misconduct is subject to disciplinary action:

A. Attempting to engage in any prohibited conduct;
B. Interpersonal violence including, but not limited to, physical assault, dating violence and/or domestic violence;
C. Conduct which threatens or endangers the health or safety of any person;
D. Sexual assault;
E. Sexual assault with an object;
F. Fondling;
G. Sexual exploitation;
H. Sexual harassment;
I. Rape;
J. Sodomy;
K. Incest;
L. Statutory Rape;
M. Using, possessing, distributing, or manufacturing a weapon, or possessing any object produced as a weapon; or any object that is visually indistinguishable from a weapon. (Exceptions may be made for use of imitation weapons or athletic equipment when used within policies specified by Athletics & Recreation, Health and Fitness faculty, Student Activities, or Performing Arts, as applicable.);
N. Hazing;
O. Arson;
P. Possession or use of alcohol by persons under 21 on university premises or events;
Q. Providing, selling, or distributing alcohol to persons under 21;
R. Unauthorized possession and/or use of any controlled substance, illegal drug or drug paraphernalia, including marijuana and medical marijuana;
S. Manufacture, distribution and/or sale of any controlled substance or illegal drug (including marijuana) or drug paraphernalia;
T. Violation of local, state, or federal law;

U. Entry, attempt to enter, or remaining without authority or permission in any university office, residence hall room, university sponsored event, or university premises;

V. Intentionally initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other emergency;

W. Harassment;

X. Stalking;

Y. Theft of property or services or knowingly possessing stolen property;

Z. Any university matters not covered by the Academic Integrity Code: dishonesty, misrepresentation, fraud, forgery;

AA. Intentionally or recklessly destroying or damaging university property or the property of others;

BB. Tampering with, or unauthorized or fraudulent use of campus telephone equipment or access codes;

CC. Abuse of university computer equipment, networks, systems, or services;

DD. Intentionally or recklessly interfering with normal university or university-sponsored activities, including, but not limited to, studying, teaching (including class sessions and office hours), research, university administration; or fire, police, or emergency services;

EE. Disorderly conduct or interfering with the rights of others;

FF. Illegal gambling or gaming, as defined by local, state or federal law;

GG. Willfully failing to comply with the directions of university officials, including public safety officers and residence life staff members, acting in performance of their duties;

HH. Unauthorized use of the university’s corporate name, logo, or symbols;

II. Unauthorized soliciting or canvassing by any individual, group, or organization;

JJ. Violations of other published non-academic university regulations or policies;

KK. Violating the terms of any disciplinary sanction imposed in accordance with this Code;

LL. Providing assistance to or in any way perpetuating the activities of an Underground Group that violates the Code and/or other university policies;

MM. Possessing or using false information, documents, or instruments of identification;

NN. Retaliation;

OO. Bias related incidents including but not limited to any violation of the Student Conduct Code motivated by a consideration of a real or perceived race, color, national origin, religion, sex, pregnancy or parenting, age, sexual
orientation, disability, marital status, personal appearance, gender identity and expression, family responsibilities, political affiliation, source of income, veteran status, an individual's genetic information or any other bases under federal and/or local law.

PP. Discrimination;

QQ. Discriminatory harassment;

RR. Discriminatory harassment under Title IX;

SS. Misuse or unauthorized use of AU OneCard as outlined in the One Card Terms & Conditions;

TT. Violations of the university’s Good Neighbor Policy;

UU. Violations of the university’s health and safety directives related to the Communicable Disease Policy.

VII. CLASSROOM BEHAVIOR AND ACADEMIC DISHONESTY

Primary responsibility for managing the classroom environment rests with the faculty. Students who engage in any behavior that has the effect of disrupting a class may be directed by the faculty member to leave the class for the remainder of the class period. Longer suspensions from class or dismissal on disciplinary grounds must be preceded by a disciplinary conference or hearing, as set forth in Sections XV and XVI of this Code.

Academic dishonesty allegations are processed in accordance with procedures set forth in the Academic Integrity Code. Students will be subject to both the Student Conduct Code and the Academic Integrity Code in cases where there is a combination of alleged violations of academic and non-academic regulations.

VIII. PROHIBITED CONDUCT MOTIVATED BY BIAS

Bias-related incidents are counter to the university’s commitment to fostering an inclusive community based on mutual respect. Bias-related incidents are addressed through the Student Conduct Code, only when accompanied by a form of prohibited conduct in Section VI (e.g. vandalism, harassment, violence). Students found responsible for bias-related prohibited conduct will have this included as a factor in determining sanctions.

IX. STUDENT GROUPS AND ORGANIZATIONS

Groups of students and student organizations are expected to comply with all university policies including this Code and all additional policies pertaining to groups and organizations including federal, state, and local laws. Allegations of policy violations by groups or organizations will be investigated and resolved through Student Conduct and Conflict Resolution Services consistent with the following:

A. Recognized student organizations and student groups with provisional recognition, as well as their members and officers, may be held collectively and/or individually responsible for violations of the Code and/or other university policies.
B. The university’s decision to hold a group or organization responsible for misconduct of its members is based on a review of the circumstances of factors including, but not limited to, whether or not the misconduct:

1. Was committed by one or more officers or authorized representatives acting in the scope of their group or organizational capacities;

2. Involved or was condoned by (either actively or passively) more than one member, alumnus, or guest of the group or organization;

3. Occurred at or in connection with an activity or event funded, sponsored, publicized, advertised, or communicated about by the group or organization;

4. Occurred at or in connection with an activity or event that a reasonable person would associate with the group or organization;

5. Could reasonably have been foreseen by the group or organization which took inadequate reasonable precautions to prevent the incident;

6. Resulted from a policy or practice of the group or organization;

7. Was attributable to the group or organization under that entity’s own policies (e.g., constitution, governing documents, standard of conduct, local or national risk management guidelines, etc.);

8. Was committed by individuals who, but for their affiliation with the group or organization, would not have been involved in the incident;

9. Was not reported to appropriate emergency and/or university officials despite one or more officers or members of a group or organization having knowledge of the alleged violation;

10. Occurred and the members of the group or organization failed to cooperate with the university during the disciplinary process and/or;

11. Occurred at a time when the group or organization had not satisfactorily completed the terms of any other disciplinary sanction or outcome.

C. Recognized student organizations and student groups with provisional recognition will designate a member or officer to represent the organization or group in a disciplinary proceeding. The designated member or officer will be responsible for interacting with the university and serving as the point of contact for all matters related to the disciplinary proceeding.

D. Sanctions for group or organization misconduct may include revocation or denial of registration or recognition, as well as other appropriate sanctions. Sanctions for misconduct by a group with provisional recognition may include denial of recognition, as well as other appropriate sanctions. Any efforts by a formerly recognized or recognized student organization or group to establish an Underground Group may result in denial of future application for recognition, and their members and officers may be held responsible individually for any group-related activities of such an Underground Group that violate the Code and/or other university policies.

E. Recognized student organizations, including fraternities and sororities, may appoint panels or boards to mediate disputes and enforce association bylaws. Decisions or recommendations by such panels or boards do not constitute official action by the university.
X. INTERIM SUSPENSION

Pursuant to the university’s Interim Suspension Policy (see Appendix C), the Dean of Students or their designee may suspend a student from the university and/or university housing or deny access to university privileges for an interim period pending disciplinary charges or criminal proceedings or medical evaluation regarding behavior relevant to such proceedings. The Dean of Students or their designee, at their discretion, may impose an interim suspension when the continued presence of the student at the university (a) poses a substantial and immediate threat to the safety and well-being of members of the university community; or (b) poses a threat to the stability and continuation of normal university functions. The Dean of Students or their designee may consult with other university administrators or external professionals as needed in deciding whether to impose an interim suspension. When placed on an interim suspension, a student may not participate in university activities, including but not limited to: attending or participating in academic classes or programs, residing in university owned or operated facilities, being present on university premises. Any modifications to the interim suspension will be explicitly communicated by the Dean of Students or their designee. Communication beyond staff in the Office of the Dean of Students and Student Conduct & Conflict Resolution Services must be approved by the Dean of Students or designee.

The Dean of Students or their designee will provide written notification to a student who is placed on interim suspension and the student will have the opportunity to appeal the interim suspension pursuant to the process in the university’s Interim Suspension Policy, which can be found in Appendix C.

XI. CONDUCT COUNCIL

The Conduct Council will consist of students, faculty, and staff selected by the Director of Student Conduct and Conflict Resolution Services with the approval of the Vice President of campus life. The Director of Student Conduct and Conflict Resolution Services or designee is responsible for training and providing administrative support to the Council. Specifically, Conduct Council members and Student Conduct and Conflict Resolution Services staff will participate in mandatory, annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking, including how to participate in a Sanction Panel that addresses these violations. Among other duties, members of the Conduct Council will sit on hearing panels designed to resolve allegations referred for a hearing in accordance with Section XVI of this Code.

A. The Director of Student Conduct and Conflict Resolution Services or designee will select a hearing panel from the Conduct Council comprised of three (3) persons: one (1) student and two (2) members of the faculty/staff.

B. Both the findings and the sanctions determined by Conduct Council hearing panels are recommendations to the Dean of Students or designee, who will render a decision.

C. Members of the Conduct Council who are alleged to have committed any violation of this Code, other university policies, or a criminal offense may be temporarily suspended from their positions by the Director of Student Conduct and Conflict Resolution Services while allegations against them are pending. Members found responsible for any such violation or offense may be disqualified from any further participation in the university conduct system. Additional grounds and procedures for removal may be established by the Director of Student Conduct and Conflict Resolution Services.
XII. ADVISORS

At their own discretion, complainants and respondents may be advised by an American University student, faculty, or staff member. The role of the advisor is limited to consultation. While advisors may be present at disciplinary proceedings, they may not address hearing bodies, speak in disciplinary proceedings, or question witnesses. Advisors may not act on behalf of the complainant or respondent, or contact any participant in the conduct process. Advisors may not act in a dual role during the disciplinary proceeding (e.g. as both a witness and an advisor). Because the purpose of this conduct process is to provide a fair review of alleged violations of this Code, rather than a formal legal proceeding, participation of persons acting as legal counsel is not permitted.

XIII. STANDARDS OF FAIR PROCESS

Students who may be subject to removal from university housing, suspension, or dismissal will be referred to a disciplinary hearing, as specified in Section XVI of this Code. Students who may be subject to lesser sanctions for non-academic misconduct will be referred to a disciplinary conference, as set forth in Section XV of this Code. Formal rules of evidence will not be applied, nor will deviations from prescribed procedures necessarily invalidate a decision unless significant prejudice to the parties involved or the university result.

XIV. PROCEDURES FOR CASE RESOLUTION

A. Any university student, faculty, or staff member may submit a complaint regarding a student, a recognized student organization, or a student group with provisional recognition suspected of violating this Code to the Director of Student Conduct and Conflict Resolution Services. A written complaint must be filed with the Director of Student Conduct and Conflict Resolution Services within 30 calendar days of the occurrence or discovery of the alleged infraction(s). Requests for extensions of the 30 calendar day filing period must be made in writing to the Director of Student Conduct and Conflict Resolution Services or designee, who may extend this time frame for good cause. Good cause can include matters that are under on-going investigation. This 30 calendar day filing period does not apply to written complaints involving sexual misconduct and discrimination and are subject to the procedures described in Section XX of this Code. The Director of Student Conduct and Conflict Resolution Services or their designee will refer all complaints involving sexual misconduct or discrimination to the appropriate administrator and procedures as identified in Section XX of this Code.

B. Those submitting a complaint to Student Conduct & Conflict Resolution Services are normally expected to serve as a witness should the case be resolved through a disciplinary hearing. Members of the community may also submit an anonymous complaint regarding alleged misconduct, but it may limit the ability for a complaint to be fully adjudicated.

C. Upon receipt of the complaint, the Director of Student Conduct and Conflict Resolution Services or designee will conduct a preliminary review to determine whether the alleged misconduct, if proved, would violate policies listed in Section VI and the Residence Hall Regulations of this Code. The Director of Student Conduct and Conflict Resolution Services or designee has the discretion to determine whether a complaint may be resolved informally. If upon the receipt of the complaint, there is a need to evaluate whether there is sufficient information to form a reasonable belief that the alleged misconduct would violate policies listed in Section VI and/or the Residence Hall Regulations of this Code, the Director of Student Conflict & Conflict Resolution Services or designee will meet with involved parties or witnesses, review documents, or gather relevant information. If there is sufficient information, the complaint will proceed through the appropriate case resolution procedures. If upon the review of the facts presented, it is determined that there is insufficient information or if the complaint fails to allege an actual violation of the Code, the complaint will be dismissed.
D. The Director of Student Conduct and Conflict Resolution Services or designee has the discretion to determine whether a complaint may be resolved informally through mediation or a restorative process. Mediation is encouraged as an alternative means to resolve some conduct cases. Restorative practices are derived from Restorative Justice principles to address incidents in which conflict arises in the community. Cases involving physical violence will not be resolved through an informal process as an alternative to the conduct process. The Director of Student Conduct and Conflict Resolution Services or designee will determine if mediation or a restorative process is appropriate. The Director or their designee may decline to process a complaint until the parties in a non-academic misconduct case make a reasonable attempt to achieve a mediated agreement. To be binding in a conduct case, any mediated agreement must be approved by the Director of Student Conduct and Conflict Resolution Services. If mediation fails, the case will move forward in a disciplinary proceeding. The participation of all parties in a restorative process must be voluntarily. If a restorative process fails, the case will move forward in a disciplinary proceeding.

E. For complaints where the Director of Student Conduct and Conflict Resolution Services or their designee determines that the outcomes are reasonably likely to include removal from university housing, suspension or dismissal, the complaint will be referred to a disciplinary hearing before a Conduct Council panel.

F. For complaints where the Director of Student Conduct & Conflict Resolution Services or their designee determines that the outcomes are not reasonably likely to include removal from university housing, suspension, or dismissal, the complaint will be referred to a disciplinary conference with a hearing officer, as set forth in Section XV of this Code.

G. Students referred for a disciplinary hearing may request to have their cases resolved in a disciplinary conference in accordance with Section XV of this Code. Such request, must be in writing, affirming that the student is aware that the hearing is being waived. The full range of sanctions may be imposed, including removal from university housing, suspension, or dismissal from the university. Both the findings and the sanctions determined by the hearing panel or hearing officer are recommendations to the Dean of Students or designee, who will render a decision. The Director of Student Conduct and Conflict Resolution Services or designee will have the discretion in granting such a request.

H. Hearing panel members, hearing administrators, and respondents will have the right to question relevant witnesses who make statements at disciplinary hearings.

I. The university may withhold awarding a diploma or degree otherwise earned until the completion of the process as set forth in this Code, including the completion of all sanctions imposed. Withholding of a diploma or degree means not conferring a diploma or degree otherwise earned for a defined period of time or until the completion of assigned sanctions.

J. Students may not withdraw from the university if they have a conduct matter pending.

K. To ensure timely resolution, Student Conduct & Conflict Resolution Services will facilitate disciplinary proceedings during all periods the University is open, including summer and winter breaks. Reasonable adjustments to the timeline of a disciplinary process may be made to ensure participation of the parties and/or witness during winter and summer breaks.

L. Students who need an accommodation for a disability during a disciplinary proceeding, must notify the Student Conduct & Conflict Resolution Services in advance of the disciplinary proceeding.
XV. PROCEDURES FOR DISCIPLINARY CONFERENCES

Students accused of non-academic offenses that are not reasonably likely to result in removal from university housing, suspension, or dismissal are subject to a disciplinary conference with a hearing officer. The Director of Student Conduct and Conflict Resolution Services or designee will serve as the hearing officer and conduct the disciplinary conference. The respondent may challenge a hearing officer on the ground of conflict of interest by submitting a written request within two (2) business days of the receipt of the notification letter. The hearing officer may be disqualified by the Director of Student Conduct and Conflict Resolution Services or the Dean of Students or designee. The Director of Student Conduct & Conflict Resolution Services or designee will notify the respondent of a new assigned hearing officer if appropriate. The hearing officer will make inquiries into evidence as necessary to ensure a just outcome of the case. If the respondent chooses not to appear for a disciplinary conference, the information supporting the allegations will be considered and a decision will be made in the absence of the respondent. Nonetheless, the hearing officer will consider the evidence, apply the preponderance of the evidence standard, and determine whether the respondent is responsible for violating the Code. In addition, due to the informal nature of disciplinary conferences, disciplinary conferences are not recorded.

The following procedural protections are provided to respondents in disciplinary conferences:

a. Written notice of the specific allegations at least three (3) calendar days prior to the scheduled conference with additional time at the Director’s discretion unless by a student’s own determination they have chosen to schedule the conference prior to the three (3) days have passed;

b. Reasonable access to the case file prior to and during the conference;

c. An opportunity to respond to the evidence; and

d. A right to be accompanied by an advisor, as provided in Section XII of this Code.

XVI. PROCEDURES FOR DISCIPLINARY HEARINGS

A. Students accused of non-academic offenses that will likely result in sanctions such as removal from university housing, suspension, or dismissal are subject to a disciplinary hearing convened by a hearing administrator before Conduct Council members.

B. The Director of Student Conduct and Conflict Resolution Services or designee will serve as the hearing administrator and conduct the hearing. They may participate in hearing panel deliberations and discussions, but cannot vote. The hearing administrator is responsible for final decisions on all procedural issues and may modify hearing procedures, if necessary, to ensure a fair and expedient administration of the hearing.

C. The Director of Student Conduct and Conflict Resolution Services or designee will give respondents notice of the hearing date and the specific allegations against them at least five (5) calendar days in advance of the hearing. Respondents will be accorded reasonable access to the case file, which will be retained in the office of the Director of Student Conduct and Conflict Resolution Services and will be provided to the hearing panel.

D. Respondents must submit relevant case materials and names of any witnesses for the scheduled disciplinary hearing no later than three (3) calendar days prior to the hearing. Student Conduct & Conflict Resolution Services will provide the respondent with the names of any additional witnesses attending the hearing.
E. If the respondent chooses not to appear for a disciplinary hearing, the information supporting the allegations will be considered, and a decision will be made in the absence of the respondent.

F. All hearings are closed to the public.

G. The hearing administrator will exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. Any person, including the respondent, who disrupts a hearing may be excluded by the hearing administrator for cause.

H. The university will make audio recordings of hearings for the purpose of review and appeals. The university does not provide copies of recordings from disciplinary hearings. The respondent may request to listen to the recording following the proceeding in the Student Conduct & Conflict Resolution Services office and may be accompanied by an advisor to do so.

I. Any party may challenge a panel member or the hearing administrator on the ground of a conflict of interest. Hearing panel members may be disqualified by the hearing administrator. A hearing administrator may be disqualified by a majority vote of the members of the hearing panel. Votes will be by secret ballot.

J. People presenting statements will be asked to affirm that their statements are truthful and may be subject to allegations of violating this Code by intentionally providing false information to the university.

K. People presenting statements, other than the respondent, will be excluded from the hearing except when providing statements to the hearing panel. All parties, the people making statements, and the public will be excluded during panel deliberations, which will not be recorded or transcribed.

L. The allegations against the respondent must be established by a preponderance of the evidence.

M. Formal rules of evidence will not be applicable in disciplinary proceedings conducted pursuant to this Code. The hearing administrator may exclude evidence that is irrelevant, unduly repetitious, or protected from disclosure based on privilege or confidentiality. The respondent may make a statement arguing certain evidence is not relevant. The hearing administrator will make a final decision whether or not to admit the evidence in question.

N. Respondents and the hearing panel will be afforded an opportunity to ask relevant questions of witnesses who make statements at the hearing.

O. Written statements will be admitted into evidence only if signed by the person submitting the written statement and witnessed by the Director of Student Conduct and Conflict Resolution Services or designee, or if notarized.

P. The panel will make a determination of responsibility based on the information presented in the disciplinary hearing and using the preponderance standard. Both the findings and the sanctions determined by the hearing panel are recommendations to the Dean of Students or designee, who will render a final decision. The past disciplinary record of the respondent will be supplied to the panel during their deliberations only if a student is found responsible for the charges.

Q. Any determination of responsibility by majority vote of the hearing panel will be supported by written findings, which will be placed in the case file and made available to the student respondent before a final decision is rendered by the Dean of Students.
XVII. SANCTIONS

Sanctions that may be imposed in accordance with this Code include, but are not limited to:

A. “Censure” – a written reprimand for violation of specified regulations, including a warning that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.

B. “Disciplinary Probation” – status assigned for a designated period of time, during which any other violation of the Code may result in removal from university housing, suspension, or dismissal from the university. Students on disciplinary probation may not hold or run for elected or appointed leadership positions including, but not limited to: resident assistants, peer leaders or mentors, orientation leaders, teaching assistants, Student Government leaders and leadership positions in recognized clubs and organizations, including professional, Interfraternity Council fraternities, Panhellenic Council sororities, and Intercultural Greek Collective fraternities and sororities. Students on disciplinary probation may not join or participate in a new member formal recruitment process for any organization where membership is dependent on the completion of said process (i.e. professional, Interfraternity Council fraternities, Panhellenic Council sororities, and Intercultural Greek Collective fraternities and sororities). Additionally, students on disciplinary probation may not travel abroad in any AU-sponsored program including Alternative Break, AU Study Abroad, or abroad trips that are required for or sponsored by individual faculty for academic classroom participation. Student organizations, recognized clubs, and fraternities and sororities on disciplinary probation and found responsible for subsequent violations of the Code may be suspended or lose their recognition.

C. “Restitution” – repayment of the direct cost to the university for damages resulting from a violation of this Code.

D. “Relocation in University Housing” – administrative reassignment to a different residence hall and/or room.

E. “Removal from University Housing” – denial of housing privileges.

F. “Suspension” – exclusion from university premises and other privileges or activities as set forth in the suspension notice. This action will be permanently recorded on the student's academic transcript.

G. “Dismissal” – permanent termination of student status and exclusion from university premises, privileges, and activities. This action will be permanently recorded on the student's academic transcript.

H. “Revocation of Degree” – rescinding a student's degree awarded by the university.

I. “Other Sanctions” – other sanctions may be imposed instead of, or in addition to, those specified in sections (A) through (I) including, but not limited to, service or research projects.

Factors used to determine the severity of sanctions, include, but are not limited to:

- The present demeanor and past disciplinary record of the respondent;
- The nature of the violation;
- The severity of any damage, injury, or harm resulting from the violation;
- Evidence that the respondent’s conduct was motivated by bias towards an individual or group on the basis of real or perceived, race, color, national origin, religion, sex, pregnancy or parenting, age, sexual orientation, disability, marital status, personal appearance, gender identity and expression, family responsibilities, political affiliation, source of income, veteran status, an individual’s genetic information or any other bases under federal and/or local law. (See Section V. Definitions for “Bias Incident.”)
XVIII. APPEALS

Disciplinary determinations may be appealed in keeping with the following provisions:

A. The appeal must be submitted in writing to Student Conduct and Conflict Resolution Services within seven (7) calendar days after the notice of the case outcome.

B. Appeals will be reviewed by an appellate board of the Conduct Council to determine their viability. The appellate board will consist of three (3) persons: one (1) student and two (2) members of the faculty/staff selected from the Conduct Council by the Director of Student Conduct and Conflict Resolution Services. The appellate board will be constituted of members who did not serve on the original hearing panel. The appellate board will meet as soon as possible after the appeal is received.

C. The appellate board will determine viability based on the following conditions:

   i. New information that significantly alters the finding of fact;

   ii. Evidence of improper procedure; or

   iii. Insufficient/excessive sanctions.

Decisions of the appellate board about the viability of the appeal are determined by majority vote and are final. Only when deemed viable will the appeal be forwarded to the Vice President of Campus Life or designee for review and decision.

D. The appellate board may deny the request for appeal and affirm the findings of the hearing officer or Dean of Students; or grant the request for appeal and forward its recommendations to the Vice President of Campus Life or designee.

E. Appeals will be decided based on the notification letter, the outcome letter, the appeal statement, witness statements, and evidence. All written materials considered by the appellate board and Vice President of Campus Life or designee will be subject to inspection by the appealing party/parties. Decisions rendered by the Vice President of Campus Life or designee are final.

F. The following standards will apply when appeals are considered by the Vice President of Campus Life or designee:

   i. Sanctions may be increased or decreased, only if found to be substantially disproportionate to the offense.

   ii. Cases may be remanded for rehearing, only if specified procedural errors or errors in interpretation of university regulations were so substantial as to deny the respondent a fair hearing, or if new and significant evidence becomes available that could not have been discovered by a properly diligent student before or during the original hearing.

   iii. Cases may be dismissed if the finding is held to be unsupported by the evidence.

G. The imposition of sanctions will be deferred while an appeal is pending, unless, in the discretion of the Vice President of Campus Life or designee, the continued presence of the respondent in the residence halls or on the campus poses a substantial threat to him or herself, to others, or to the stability and continuance of normal university functions.
XIX. HONESTY & CONFIDENTIALITY IN DISCIPLINARY PROCEEDINGS

The following honesty and confidentiality provisions apply to any disciplinary proceeding under the Code:

A. Honesty – Student Conduct & Conflict Resolution Services accepts into its proceedings and records only statements that are sworn to be truthful. Individuals entering written statements into any proceeding or record must affirm the truthfulness of the statements in the presence of the Director of Student Conduct & Conflict Resolution Services, or designee. An individual who knowingly provides false information or testimony may be subject to disciplinary action.

B. Confidentiality – the assurance of confidentiality encourages complainants, respondents, and witnesses to share freely all the information that is essential to achieving a fair case outcome. Therefore, participants in the disciplinary process are expected to treat all information disclosed at a proceeding as confidential. This expectation of confidentiality is not intended to imply or impose restrictions in the following situations:

i. Sharing one’s own experience of the incident that led to the Student Conduct complaint;

ii. Sharing information relevant to receiving counseling, medical, legal, or similar types of support services;

iii. Preparing for a case or an appeal to a case outcome;

iv. Exercising rights granted to parties under a particular university policy or the law. (e.g. to file a complaint about the Student Conduct Code process, share the findings of responsibility and any sanctions from an outcome letter provided to the parties in cases of crimes of violence, non-forcible sex offenses, sexual assault, dating violence, domestic violence and stalking.)

XX. PROCEDURES RELATED TO VIOLATIONS OF THE UNIVERSITY’S DISCRIMINATION AND NON-TITLE IX SEXUAL MISCONDUCT POLICY AND TITLE IX SEXUAL HARASSMENT POLICY

A. Procedures Related to Violations of the University’s Discrimination and Non-Title IX Sexual Misconduct Policy Regarding Non-Title IX Sexual Misconduct

The procedures described in Section XX.A of the Student Conduct Code are the exclusive procedures that govern the formal resolution of all written complaints against students of sexual misconduct (including, but not limited to, dating violence, domestic violence, rape, sexual assault, sexual harassment, sexual exploitation, or stalking) under the university’s Discrimination and Non-Title IX Sexual Misconduct Policy that fall outside the scope and jurisdiction of the university’s Title IX Sexual Harassment Policy. If a written complaint alleges sexual misconduct falling within the jurisdiction of the university’s Title IX Sexual Harassment Policy, then the procedures referenced in Section XX.C. will govern the formal resolution of the complaint.

1. Investigations

a. Members of the AU community seeking formal resolution must file a formal complaint with the Assistant Vice President for the Office of Equity and Title IX Officer or designee. If the complainant wishes to move forward with an investigation, the Assistant Vice President for the Office of Equity and Title IX Officer or designee, will
provide written notice to both parties. The notice will include information such as, the identity of those involved, the date, location, and nature of the alleged Prohibited Conduct, and the provisions of the Student Conduct Code and Policy allegedly violated.

b. Pursuant to the university’s Discrimination and Non-Title IX Sexual Misconduct Policy, complainants should file a formal complaint as soon as possible following the alleged discrimination. Timely complaint filing gives the University the best chance to resolve the complaint. If the respondent is no longer a student at the time of the formal complaint, the university may not be able to take disciplinary action against the respondent, but it will seek to provide support for the complainant and take steps to end the alleged Prohibited Conduct, prevent its recurrence, and address its effects.

c. To ensure timely resolution, investigations will take place during all periods the University is open, including summer and winter breaks. Reasonable adjustments to the timeline of an investigation may be made to ensure participation of the parties and/or witness during winter and summer breaks. The investigator will provide periodic updates at reasonable intervals regarding the status of the investigation.

d. The complainant and respondent may challenge the investigator on the grounds of a conflict of interest. This challenge may be raised, in writing, to the Assistant Vice President for the Office of Equity and Title IX Officer or designee within forty-eight (48) hours of the notice of the commencement of the investigation. The Assistant Vice President for the Office of Equity and Title IX Officer or designee, at their sole discretion, may disqualify the investigator.

e. The complainant and respondent may be accompanied by an advisor of their choice during any meeting related to the complaint. Advisor of choice is not limited to American University students, faculty, or staff, and may be any individual the party choose, including, but not limited to a friend, mentor, family member, attorney; the role of advisor is limited to consultation. While an advisor may be present at any meeting, an advisor may not act on behalf of the complainant or the respondent, or contact any participant related to the case.

f. During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be addressed by the investigator to the other party or to any witness. The investigator will notify and seek to meet separately with the complainant, the respondent, and third party witnesses, and will gather relevant evidence and information.

g. The investigator has the discretion to determine the relevance of any submitted evidence and to include or exclude certain types of evidence. The sexual history or sexual character of a party will not be admissible in investigations unless such information is determined relevant by the investigator.

h. At the conclusion of the investigation, the investigator will prepare an investigation report, summarizing the information gathered; the investigation report will not include any findings. The complainant and respondent will have an opportunity to review the investigation report and submit additional comments, questions or information to the investigator. The investigator will designate a reasonable time (“Case Review Period”) for this review and response by the parties, not to exceed ten (10) calendar days.
i. Following the Case Review Period, the investigator will prepare an investigation report, which will include a finding of responsible or not responsible, by a Preponderance of the Evidence, for each alleged violation of the Policy and/or Student Conduct Code.

j. The Assistant Vice President for the Office of Equity and Title IX Officer or designee will notify both parties, simultaneously and in writing, of the completion of the investigation report and the investigation’s findings.

k. If the investigator finds that there is insufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility of all the allegations, the findings may be appealed pursuant to XX.A.3 Appeals.

l. If the investigator finds the respondent responsible, by a Preponderance of the Evidence, of one or more of the allegations, the case will be referred to Student Conduct & Conflict Resolution Services to initiate a sanctioning panel as described in Section XX.A.2 Sanctioning Panel.

2. Sanctioning Panel

a. The Assistant Vice President for the Office of Equity and Title IX Officer or designee will submit a copy of the investigation report to the Student Conduct & Conflict Resolution Services office to facilitate a Sanctioning Panel.

b. The Director of Student Conduct & Conflict Resolution Services or designee will serve as the Sanctioning Panel Administrator when convening a Sanctioning Panel. They may participate in the Sanctioning Panel’s deliberations and discussion but cannot vote. The Sanctioning Panel administrator is responsible for final decisions on all procedural issues, to ensure a fair and expedient administration of the sanctioning process.

c. The Director of Student Conduct & Conflict Resolution services or designee will select a Sanctioning Panel comprised of three (3) Conduct Council members who have received annual training. The Sanctioning Panel will be comprised of one (1) student and two (2) faculty/staff members of the Conduct Council.

d. The Director of Student Conduct & Conflict Resolution Services or designee will provide both parties at least five (5) calendar days advance notice of the Sanctioning Panel’s deliberation date.

e. The complainant and the respondent may challenge a member of the Sanctioning Panel or Sanctioning Panel Administrator on the grounds of conflicts of interest. The Sanctioning Panel Administrator may disqualify Sanctioning Panel members on the grounds of conflicts of interest. The Sanctioning Panel administrator may disqualify Sanctioning Panel members if it is determined that a conflict exists. A Sanctioning Panel Administrator may be disqualified by a majority vote of the members of the Sanctioning Panel. Votes will be by secret ballot.

f. The university will make audio recordings of the Sanctioning Panels, not including the Sanctioning Panel’s deliberation, for the purpose of review and appeals. The university does not provide copies of recordings from Sanctioning Panels. The complainant and respondent may request to listen to the recording following the proceeding and may be accompanied by an advisor to do so.

g. The Sanctioning Panel will review the Investigation Report and submitted evidence by the Office of Equity and Title IX and determine the appropriation sanction(s). The complainant may submit a written statement to the
Sanctioning Panel describing the impact of the Prohibited Conduct on the complainant and expressing a preference about the sanction(s) to be imposed. The respondent may submit a written statement explaining any factors that the respondent believes should mitigate or otherwise be considered in determining the sanction(s) to be imposed.

h. The complainant and the respondent may provide their statements orally or they may be read into the record by the Sanctioning Panel Administrator. Should both parties attend the Sanctioning Panel, each party would provide their statements separately to the Sanctioning Panel. The Sanctioning Panel may ask questions to both parties in order to determine information relevant to a sanction recommendation.

i. The Sanctioning Panel will deliberate on appropriate sanctions. The complainant, respondent, and advisors are excluded during Panel deliberations. The sanctions determined by the Sanctioning Panel are recommendations to the Dean of Students or designee, who will render a final decision. The determination of sanction(s) will be made by majority vote of the Sanctioning Panel. The past disciplinary record of the respondent will be supplied to the Sanctioning Panel during deliberations.

j. The sanction(s) may include, but are not limited to, sanctions contained in Section XVII. Sanctions, of the Student Conduct Code.

k. The Dean of Students or designee will provide both parties, simultaneously and in writing, a final outcome letter, within five (5) business days, after the conclusion of the Sanctioning Panel’s deliberation. The final outcome letter will set forth the violations the Policy and/or Student Conduct Code for which the respondent was found responsible, and the sanction(s) imposed against the respondent as permitted by law.

3. Appeals

Both the findings and the sanctions may be appealed in keeping with the following provisions:

a. The complainant and the respondent may appeal the case outcome. Appeals must be submitted in writing to Student Conduct & Conflict Resolution Services within seven (7) calendar days after the notice of the outcome.

b. Should an appeal be submitted by the complainant or respondent, the other party shall be given an opportunity to respond within seven (7) calendar days of notification that an appeal has been submitted.

c. Appeals will be reviewed by an appellate board of the Conduct Council to determine viability. The appellate board will consist of three (3) persons: one (1) student and two (2) members of the faculty/staff selected from the Conduct Council by the Director of Student Conduct & Conflict Resolution Services or designee. The appellate board will be comprised of members who did not serve on the original Sanctioning Panel. The appellate board will meet as soon as possible after the appeal is received.

d. The appellate board will determine viability based on the following conditions:
   i. New information that significantly alters the finding of fact;
   ii. Evidence of improper procedure; and/or
   iii. Insufficient/excessive sanctions.
e. Decisions of the appellate board about the viability of the appeal are determined by majority vote and are final. The appellate board may deny the request for appeal and affirm the findings of the investigator and sanctions from the Dean of Students. Only when deemed viable will the appeal be forwarded to the Vice President of Campus Life or designee for review and decision.

f. Appeals will be decided based on the notification letter, the outcome letter, the appeal statement, and Investigation Report and supporting documentation. All written materials considered by the appellate board and Vice President of Campus Life or designee will be subject to inspection by the appealing part/parties. Both parties will be notified in writing of the outcome of the appeal. Decisions rendered by the Vice President of Campus Life or designee are final.

g. The following standards will apply when appeals are considered by the Vice President of Campus Life or designee:
   i. Sanctions may be increased or decreased, only if found to be substantially disproportionate to the offense.
   ii. Cases may be remanded for additional investigation, only if specified procedural errors were so substantial as to deny the complainant or respondent a fair investigation, or if new and significant evidence becomes available that could not have been discovered by a properly diligent student before or during the original investigation.
   iii. Cases may be dismissed, if the finding is held to be unsupported by the evidence.

h. The imposition of sanctions will be deferred while an appeal is pending, unless, in the discretion of the Vice President of Campus Life or designee, the continued presence of the respondent in the residence halls or on the campus poses a substantial threat to themselves, to others, or to the stability and continuance of normal university functions.

i. Records related to these procedures will be maintained pursuant to Section XXI of the Student Conduct Code.

B. Procedures Related to Violations of the University’s Discrimination and Non-Title IX Sexual Misconduct Policy Regarding Discrimination

The procedures described in this section of the Student Conduct Code are the exclusive procedures that govern the formal resolution of all written complaints against students of discrimination and discriminatory harassment as defined in the university’s Discrimination and Non-Title IX Sexual Misconduct Policy. If a written complaint alleges misconduct falling within the jurisdiction of the university’s Title IX Sexual Harassment Policy, then the procedures referenced in Section XX.C will govern the formal resolution of the complaint.

1. Investigations

a. Members of the AU community seeking formal resolution for incidents involving discrimination or discriminatory harassment must file a formal written complaint with the Assistant Vice President for the Office of Equity and Title IX Officer or designee. If the complainant wishes to move forward with an investigation, the Assistant Vice President for the Office of Equity and Title IX Officer or designee will provide written notice to both parties. Such notice will include, but is not limited to, the identity of the complainant and the respondent, the
date of the alleged violation, nature of the alleged Prohibited Conduct, and the provisions of the Student Conduct Code and Policy allegedly violated.

b. Pursuant to the university’s Discrimination and Non-Title IX Sexual Misconduct Policy, complainants should file a formal complaint as soon as possible following the alleged discrimination. Timely complaint filing gives the University the best chance to resolve the complaint. If the respondent is no longer a student at the time of the formal complaint, the university may not be able to take disciplinary action against the respondent, but it will still seek to provide support for the complainant and take steps to end the alleged Prohibited Conduct, prevent its recurrence, and address its effects.

c. To ensure timely resolution, investigations will take place during all periods the University is open, including summer and winter breaks. Reasonable adjustments to the timeline of an investigation may be made to ensure participation of the parties and/or witness during winter and summer breaks. The Assistant Vice President for the Office of Equity and Title IX Officer or designee will provide periodic updates at reasonable intervals regarding the status of the investigation.

d. The complainant and the respondent may challenge the investigator on the grounds of a conflict of interest. This challenge must be raised, in writing, to the Assistant Vice President for the Office of Equity and Title IX Officer or designee, within forty-eight (48) hours notice of the commencement of the investigation. The Assistant Vice President for the Office of Equity and Title IX Officer or designee, at their sole discretion, may disqualify the investigator.

e. The complainant and respondent may be advised and accompanied by an American University student, faculty, or staff member. The role of an advisor is limited to consultation. While advisors may be present at any meeting, advisors may not act on behalf of the complainant or the respondent, or contact any participant related to the case.

f. During the investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be addressed by the Investigator to the other party or to any witness. The investigator will notify and seek to meet separately with the complainant, the respondent, and third party witnesses, and will gather relevant evidence and information.

g. The investigator has the discretion to determine the relevance of any submitted evidence and to include or exclude certain types of evidence.

h. At the conclusion of the investigation, the investigator will prepare a draft investigation report, summarizing the information gathered; the draft investigation report will not include any findings. The complainant and the respondent will have an opportunity to review the draft investigation report and submit additional comments, questions, or other information to the investigator. The investigator will designate a reasonable time (“Case Review Period”) for this review and response by the parties, not to exceed ten (10) calendar days.

i. Following the Case Review Period, the investigator will prepare an investigation report, which will include a finding of responsible or not responsible, by a Preponderance of the Evidence, for each alleged violation of the Policy and/or Student Conduct Code.
j. The Assistant Vice President for the Office of Equity and Title IX Officer or designee will notify both parties, simultaneously and in writing, of the completion of the investigation report and the investigation’s findings.

k. If the investigator finds that there is insufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility of all the allegations, the case is resolved.

l. If the investigator finds the respondent responsible, by a Preponderance of the Evidence, of one or more of the allegations, the case will be referred to Student Conduct & Conflict Resolution Services to initiate a Sanctioning Panel as described in Section XX. B. 2. Sanctioning Panel.

2. Sanctioning Panel

a. The Assistant Vice President for the Office of Equity and Title IX Officer or designee will submit a copy of the Investigation Report to the Student Conduct & Conflict Resolution Services office to facilitate a Sanctioning Panel.

b. The Director of Student Conduct & Conflict Resolution Services or designee will serve as the Sanctioning Panel administrator when convening a Sanctioning Panel. They may participate in the Sanctioning Panel’s deliberations and discussion but cannot vote. The Sanctioning Panel Administrator is responsible for final decisions on all procedural issues, to ensure a fair and expedient administration of the sanctioning process.

c. The Director of Student Conduct & Conflict Resolution Services or designee will select a Sanctioning Panel comprised of three (3) Conduct Council members who have received annual training. The Sanctioning Panel will be comprised of one (1) student and two (2) faculty/staff members of the Conduct Council.

d. The Director of Student Conduct & Conflict Resolution Services or designee will provide both parties at least five (5) calendar days advance notice of the Sanctioning Panel’s deliberation date.

e. The complainant and the respondent may challenge a member of the Sanctioning Panel or Sanctioning Panel Administrator on the grounds of conflicts of interest. The Sanctioning Panel Administrator may disqualify Sanctioning Panel members. A Sanctioning Panel Administrator may be disqualified by a majority vote of the members of the Sanctioning Panel. Votes will be by secret ballot.

f. The university will make audio recordings of the Sanctioning Panels, not including the Sanctioning Panel’s deliberation, for the purpose of review and appeals. The university does not provide copies of recordings from Sanctioning Panels. The respondent may request to listen to the recording following the proceeding and may be accompanied by an advisor to do so.

g. The Sanctioning Panel will review the Investigation Report, and any submitted evidence from the investigation, and determine appropriate sanction(s). The complainant may submit a written statement to the Sanctioning Panel describing the impact of the Prohibited Conduct on the complainant and expressing a preference about the sanction(s) to be imposed. The respondent may submit a written statement explaining any factors that the respondent believes should mitigate or otherwise be considered in determining the sanction(s) to be imposed.
h. The complainant and the respondent may provide their statements orally or they may be read into the record by the Sanctioning Panel Administrator. Should both parties attend the Sanctioning Panel, each party would provide their statements separately to the Sanctioning Panel. The Sanctioning Panel may ask questions to both parties in order to determine information relevant to a sanction recommendation.

i. The Sanctioning Panel will deliberate on the appropriation sanctions. The complainant and the respondent are excluded during panel deliberations. The sanctions determined by the Sanctioning Panel are recommendations to the Dean of Students or designee, who will render a final decision. The determination of sanction(s) will be made by majority vote of the Sanctioning Panel. The past disciplinary record of the respondent will be supplied to the Sanctioning Panel following the proceeding.

j. The sanction(s) may include, but are not limited to, sanctions contained in Section XVII. Sanctions, of the Student Conduct Code.

k. The Dean of Students or designee will provide the respondent (and to the complainant in cases where it is legally appropriate) in writing, a final outcome letter. The final outcome letter will set forth the violations of the Policy and/or Student Conduct Code for which the respondent was found responsible and the sanction(s) imposed against the respondent.

3. Appeals

a. The respondent may appeal the case outcome. Appeals must be submitted in writing to the Student Conduct & Conflict Resolution Services office within seven (7) calendar days after the notice of the case outcome.

b. Appeals will be reviewed by an appellate board of the Conduct Council to determine their viability. The appellate board will consist of three (3) persons: one (1) student and two (2) members of the faculty/staff selected from the Conduct Council by the Director of Student Conduct & Conflict Resolution Services or their designee. The appellate board will be comprised of members who did not serve on the original Sanctioning Panel. The appellate board will meet as soon as possible after the appeal is received.

c. The appellate board will determine viability based on the following conditions:
   i. New information that significantly alters the finding of fact;
   ii. Evidence of improper procedure and/or
   iii. Insufficient/excessive sanctions.

d. Decisions of the appellate board about the viability of the appeal are determined by majority vote and are final. The appellate board may deny the request for appeal and affirm the findings of the Investigator or sanctions from the Dean of Students. Only when deemed viable will the appeal be forwarded to the Vice President of Campus Life or designee for review and decision.

e. Appeals will be decided based on the notification letter, the outcome letter, the appeal statement, and Investigation Report and supporting documentation. All written materials considered by the appellate board and Vice President of Campus Life or designee will be subject to inspection by the respondent. Decisions rendered by the Vice President of Campus Life or designee are final.
f. The following standards will apply when appeals are considered by the Vice President of Campus Life or
designee:
   i. Sanctions may be increased or decreased, only if found to be substantially disproportionate to the offense;
   ii. Cases may be remanded for additional investigation, only if specified procedural errors were so substantial
      as to deny the respondent a fair investigation, or if new and significant evidence becomes available that
      could not have been discovered by a properly diligent student before or during the original investigation.
   iii. Cases may be dismissed if the finding is held to be unsupported by the evidence.

g. The imposition of sanctions will be deferred while an appeal is pending, unless in the discretion of the Vice
President of Campus Life or designee, the continued presence of the respondent in the residence halls or on the
 campus poses a substantial threat to themselves, to others, or to the stability and continuance of normal university
 functions.

h. Records related to these procedures will be maintained pursuant to Section XXI of the Student Conduct Code.

C. Procedures Related to Violations of the University’s Title IX Sexual Harassment Policy

The grievance procedures described in the university’s Title IX Sexual Harassment Policy are the exclusive
 procedures that govern the formal resolution of all formal complaints against students of Title IX Sexual
 Harassment as defined and falling within the jurisdiction of the university’s Title IX Sexual Harassment Policy. The
grievance procedures are incorporated into the Student Conduct Code and can be found in Appendix B of the
Student Conduct Code.

XXI. DISCIPLINARY RECORDS

1. Except as noted below, disciplinary records are maintained by Student Conduct and Conflict Resolution
   Services for seven (7) years from the date of the letter providing notice of final disciplinary action. Release of
disciplinary records to third parties is provided in accordance with the Family Educational Rights and Privacy
   Act of 1974, as amended (FERPA), until a student has graduated from the university, or as required by law.
   Records for a student who is suspended, dismissed, or who withdraws with a disciplinary case pending are
   maintained indefinitely; release of these categories of disciplinary records to third parties is provided in
   accordance with all applicable laws, including FERPA and the Campus Sexual Violence Elimination Act. (See
   also the Confidentiality of Student Records policy for additional information.)

2. In addition, Student Conduct & Conflict Resolution Services, will upon a written request, disclose to the alleged
   victim of a crime of violence (defined in Section 16 of Title 18 of the United States Code), the results of any
   disciplinary hearing conducted against the student who is the alleged perpetrator of the crime or offense. If the
   alleged victim is deceased as a result of the crime or offense, Student Conduct & Conflict Resolution Services
   will provide the results of the disciplinary hearing to the victim’s next of kin, if so requested.

Amended and approved by the Vice President of Campus Life, August 2020.
RESIDENCE HALL REGULATIONS

These are implementing regulations, based on American University’s Student Conduct Code, and are incorporated as an addendum to that document. Violations of these regulations may result in referral to Student Conduct and Conflict Resolution Services for review and appropriate action. The residence halls include the halls and any areas contiguous to the halls, as well as properties managed by AU Housing & Residence Life to include the Frequency apartments. Engaging in prohibited conduct may be a violation of both the Student Conduct Code and the residence hall regulations.

RESPONSIBILITY FOR DAMAGE

Residents will be held responsible for damage to residence hall buildings and/or property operated by AU Housing & Residence Life, or furniture and will be billed for repair or replacement where they have caused damage in their own rooms or in common areas. In the event of willful damage to the common areas located in the immediate vicinity of a student’s room, or to the furnishings or facilities located therein, if the willful perpetrators of such damage cannot be identified, all resident students served by that common area may be assessed for repair or replacement costs.

RESPONSIBILITY FOR GUESTS

Residents are not permitted to allow non-AU affiliated guests or visitors, or non-residential students access to any residence hall or property operated by AU Housing & Residence Life.

Only students who live in an AU-operated building can be guests in any other AU-operated building. Residential guests will be required to check in with their host resident at the front desk of the building and are expected to check out when departing. Non-AU affiliated persons (this includes family members) and AU affiliated persons who live in a non-AU operated property will not be allowed to visit any residential building. Residents will be limited to one (1) guest being signed in at a time, and no more than one (1) guest in a bedroom at a time.

The following conduct is expressly prohibited:

I. RELATED TO RESIDENCE HALL SAFETY AND SECURITY

1. To enter any residence hall and/or property operated by AU Housing & Residence Life without swiping an access card and/or showing an access card or proper identification to a Housing & Residence Life staff member, or upon the request of a staff member.

2. To allow a visitor to enter any residence hall and/or property operated by AU Housing & Residence Life, unescorted or to permit any nonresident student to enter a residence hall and/or property operated by AU Housing & Residence Life without expressed permission from a Housing & Residence Life staff member.
3. To open, prop, or block fire or other exit/outside doors without the permission of a Housing & Residence Life staff member, except during a fire alarm.

4. To sound any elevator alarm bell without due cause, or to interfere with the normal operation of elevators.

5. To duplicate any university issued keys or access cards.

6. To distribute or share any university issued key including mail keys or AU One Cards.

7. To fail to return a spare key or access card within 10 minutes of signing it out at the front desk.

8. To enter or exit the residence hall and/or property operated by AU Housing & Residence Life, through a window, unless in response to an emergency.

9. To enter restricted areas including, but not limited to building roofs and reception desks in any residence hall, and/or property operated by AU Housing & Residence Life, without authorization from the community director.

10. To drop or throw any object or any liquid from windows.

11. To possess weapons or dangerous materials, including but not limited to firearms, air or CO2-powered weapons, and fireworks in any residence hall and/or property operated by AU Housing & Residence Life.

II. RELATED TO FIRE CODES

1. To set a fire inside a residential building and/or property operated by AU Housing & Residence Life, or in areas contiguous buildings.

2. To use any appliances in student rooms, on carpeted floors, in hallways, or other non-designated areas that have an external or exposed heating source, as outlined on the Housing & Residence Life prohibited items listed found here: [https://www.american.edu/ocl/housing/packing.cfm](https://www.american.edu/ocl/housing/packing.cfm).

3. To place in a residence hall room and/or property operated by AU Housing & Residence Life any refrigerator larger than 4.5 cubic ft. in size.

4. To cook indoors with charcoal or any open flame device.

5. To possess or burn any candle or incense indoors.

6. To fail to immediately and properly evacuate the buildings when a fire alarm sounds, or to reenter any evacuated building before receiving permission from a Housing and Residence Life or AUPD staff member.

7. To tamper with fire equipment, or to carry or remove fire extinguishers from their mounts or storage boxes, except in case of a fire.

8. To pull or activate any fire alarm when no fire is present, or to falsely report a fire or other emergency.

9. To fail to plug electronic equipment and heat-producing appliances directly into electrical outlets and to fail to use UL-approved surge protectors/power strips for all other items requiring electricity.

10. To tamper with any smoke detector.
11. To run electrical wires beneath any rug or carpet.

12. To smoke or vape in any residence hall room, or residential space and/or property operated by AU Housing & Residence Life, including but not limited to stairwells, lobbies, or any space not designated for smoking.

III. RELATED TO PROPERTY

1. To remove furniture from any bedroom, living unit, or general floor common area without authorization of housing staff.

2. To place waterbeds in student rooms.

3. To keep any pet, except fish, in student rooms. Fish must be fresh water and contained in tanks no larger than 10 gallons.

4. To mark, deface, steal, harbor, or damage any property belonging to the university, any hall, resident, or commercial vendor (such as doors, walls, carpet, vending machines, video games, washing machines, dryers, telephone equipment, ceiling tiles, etc.).

5. To make material alterations to an assigned residential space and/or property operated by AU Housing & Residence Life.

IV. RELATED TO COMMUNITY DISRUPTION

1. To engage in any disorderly conduct or to interfere with the rights of other students. This specifically and especially pertains to other residents’ rights to an environment conducive to study and to sleep.

2. To engage in sports activity within the residence halls or within 50 feet of any residence hall.

3. To create excessive noise by any means. This includes creating excessive noise within 50 feet of any residence hall, shouting or creating disturbances from any residence hall window, playing loudspeakers through room windows at any time, noise audible outside a student room or in public areas, especially, but not limited to after 11 p.m. Sunday through Thursday, or later than 1 a.m. on weekends. These times are considered quiet hours.

4. To refuse to follow a directive from a Housing & Residence Life staff member when acting in the performance of his or her duties.

5. To solicit, canvass, post, or distribute any materials within the residence halls and/or property operated by AU Housing & Residence Life without the approval of the community director or to violate the university or residence hall posting policies.

6. To run, operate or solicit business in university housing and/or property operated by AU Housing & Residence Life.

7. To fail to comply with any Health and Safety guidelines or directives published by the university related to the Communicable Disease policy.
V. RELATED TO ALCOHOL AND ILLEGAL DRUGS

1. To use or possess any controlled substance, illegal drug or drug paraphernalia including marijuana and medical marijuana in the residence halls and/or property operated by AU Housing & Residence Life.

2. To sell, manufacture, or distribute any illegal drug, controlled substance, including marijuana and medical marijuana or drug paraphernalia in the residence halls and/or property operated by AU Housing & Residence Life.

3. To knowingly and voluntarily be in the presence of any illegal drug including marijuana or medical marijuana, or drug paraphernalia in the residence halls and/or property operated by AU Housing & Residence Life.

4. To violate university policies or District of Columbia laws related to alcohol including but not limited to:
   a. Possess or consume alcohol while under the legal age to do so in the residence halls
   b. Provide, sell, manufacture or distribute alcohol in the residence halls and/or property operated by AU Housing & Residence Life.
   c. Host an event in the residence halls where alcohol is served to, provide to, or consumed by individuals under the age of 21.
   d. Possess or consume alcohol in residence hall and/or property operated by AU Housing & Residence Life common areas such as lounges, outdoor areas, hallways, and bathrooms.
   e. Possess alcohol in a housing room and/or unit where at least one resident of that unit is not 21 years of age or older. Quantities of alcoholic beverages permitted to be brought into or stored in any residence facility by any resident 21 years of age or older are limited to reasonable amounts for the number of students assigned to the living unit. Alcohol must be transported to living units in closed, original containers by individuals who are 21 years of age or older.
   f. Facilitate or participate in drinking games, activities, or to serve or consume alcohol through equipment/paraphernalia including but not limited to funnels, shot classes, beer pong tables that result in rapid consumption of alcohol.
   g. Possess, furnish, consume or serve from a large volume or common source of alcohol, including but not limited to kegs, beer balls, punch bowls.

VI. RELATED TO THE USE OF RESIDENTIAL SPACE

1. To sublet or rent a residential room or space and/or property operated by AU Housing & Residence Life, including but not limited to Air Bnb or any other property rental site.

2. To assign the rights to your residential space and/or property operated by AU Housing & Residence Life to a third party.

3. To move your belongings and take up residence in a room and/or property operated by AU Housing & Residence Life, in which you have not been assigned or which occurred not during the specified times of the Room Change process as outlined by Housing & Residence Life.

*Amended and approved by the Vice President of Campus Life, August 2020.*
APPENDIX A:

American University Discrimination and Non-Title IX Sexual Misconduct Policy
University Policy: Discrimination and Non-Title IX Sexual Misconduct Policy

Policy Category: Community

Subject: Discrimination, Discriminatory Harassment, Non-Title IX Sexual Misconduct, Dating and Domestic Violence, Sexual Assault and Stalking

Offices Responsible for Review of the Policy: Human Resources, Dean of Faculty, Campus Life

Supplemental Documents: Related Local and Federal Laws:

- *Title VI of the Civil Rights Act of 1964* prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance.
- *Title IX of the Education Amendments of 1972* prohibits sex discrimination by educational institutions ("Title IX").
- *Violence Against Women Act 2013* addresses violent crimes against women.
- *Age Discrimination Act of 1975* prohibits discrimination based on age in programs or activities that receive federal financial assistance.
- *Age Discrimination in Employment Act* prohibits discrimination based on age in employment.
- *Title VII of the Civil Rights Act of 1964* and the *DC Human Rights Act* prohibit discrimination in employment in general.
- *Equal Pay Act* prohibits discrimination based on sex in the payment of wages.


I. SCOPE

This Policy covers all faculty, staff, and students of American University, and related third-parties (such as applicants for admission and employment, vendors, guests, and contractors) (collectively "AU Community"). This Policy applies to all University programs and activities. The University will address complaints related to an AU Community member’s participation in those programs and activities, regardless of whether the offending conduct occurred on or off campus.

This Policy addresses the procedures for reporting and responding to incidents of discrimination, discriminatory harassment, and sexual misconduct that falls outside the scope or

1 **NOTE:** Complaints by students about disability reasonable accommodation are reviewed using the Reasonable Accommodation Grievance Procedures for Students. Appeals by tenure-line and certain multi-year term faculty of unlawful discrimination relating to reappointment, promotion, and tenure are reviewed using the applicable Faculty Manual.
jurisdiction of Title IX. Some of the Prohibited Conduct covered by this Policy is also listed as prohibited in the University’s Title IX Sexual Harassment Policy, but such conduct nevertheless falls outside the scope or jurisdiction of Title IX if (1) it is not so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity; (2) it does not occur in the University education programs and activities; or (3) it does not occur in the United States. This Policy is intended to be consistent with applicable local and federal laws and regulations.

When several processes/procedures may be applicable in resolving a discrimination complaint, the Assistant Vice President for Equity and Title IX Officer (See Section IV (E) below for contact information) will determine which process will be used for resolving the complaint. This is to avoid confusion about parties/facts/procedures, and to prevent duplication of resolution efforts.

II. POLICY STATEMENT

Nondiscrimination and Equal Opportunity in Employment and Education

American University is an equal opportunity, affirmative action institution that operates in compliance with applicable laws and regulations. The University does not discriminate on the basis of race, color, national origin, religion, sex, pregnancy or parenting, age, sexual orientation, disability, marital status, personal appearance, gender identity and expression, family responsibilities, political affiliation, source of income, veteran status, an individual’s genetic information or any other bases under applicable federal and local laws and regulations (collectively “Protected Bases”) in its programs and activities. The University expressly prohibits any form of discriminatory harassment including sexual harassment, dating and domestic violence, rape, sexual assault, sexual exploitation and stalking.

Complaint Resolution

The University will respond promptly and effectively to reports of discrimination and will take appropriate action to prevent, to correct, and if necessary, to discipline individuals who violate this Policy. Members of the University Community who have relevant information are expected to cooperate with investigations of such misconduct.

The University has a separate policy, Title IX Sexual Harassment Policy, to address sexual misconduct falling within the jurisdiction of Title IX in its education programs and activities that occurs against a person in the United States. An alleged incident of Title IX Sexual Harassment will be governed by the University’s Title IX Sexual Harassment Policy. An alleged incident of sexual misconduct that does not fall within the scope of the Title IX Sexual Harassment Policy or an alleged incident of another form of discrimination as defined under this Policy will be governed by this Policy.

Retaliation

The University prohibits retaliation against a member of the AU Community for filing a complaint of discrimination, assisting in the filing of a complaint, and/or participating in the resolution of a complaint. Retaliation includes, but is not limited to threats, intimidation, and/or adverse actions related to employment or education.
III. DEFINITIONS

A. Discrimination. Discrimination occurs when an individual suffers an adverse employment, academic, or other decision based on an individual's Protected Bases.

B. Discriminatory Harassment. Discriminatory harassment is defined as unwanted verbal, visual, or physical conduct that denigrates or shows hostility against an individual protected by this Policy (e.g. race, national origin), when the conditions outlined are present:

(1) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's education, employment or participation in other University programs and/or activities or is used as the basis for University decisions affecting the individual (often known as “quid pro quo” harassment); or

(2) Such conduct creates a hostile environment. A “hostile environment” exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. When evaluation whether a hostile environment exists, the University will consider the totality of known circumstances, including but not limited to:

   a. The frequency, nature and severity of the conduct;
   b. Whether the conduct was physically threatening;
   c. The effect of the conduct on the complainant’s mental or emotional state;
   d. Whether the conduct was directed at more than one person;
   e. Whether the conduct arose in the context of other discriminatory conduct;
   f. Whether the conduct unreasonably interfered with the complainant’s educational or work performance and/or University programs and activities; and
   g. Whether the conduct implicates concerns related to academic freedom or protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical.

C. Sexual Misconduct. Sexual misconduct includes acts such as rape, dating and domestic violence, sexual assault, sexual exploitation, stalking, and other forms of non-consensual sexual activity; or violence or harassment based on sexual orientation. Categories of sexual misconduct include, but are not limited to, the following:
(1) **Dating Violence.** As defined in 34 U.S.C. § 12291(a)(1), Dating Violence is defined as violence committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the other person; and (ii) where existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(2) **Domestic Violence.** As defined in 34 U.S.C. § 12291(a)(8), Domestic Violence is violence committed by a current or former spouse or intimate partner of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabitated with the person as a spouse or intimate partner, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any individual against the person who is protected from that individual's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

(3) **Sexual Assault.** As defined in 20 U.S.C. § 1092(f)(6)(A)(v), Sexual Assault constitutes any sexual act directed against another person, without consent of the person, including instances in which the person is incapable of giving consent. Sexual Assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (FBI). The following are types of Sexual Assault under the FBI’s National Incident-Based Reporting System (“NIBRS”) uniform crime reporting system:

   a. **Rape.** As defined in NIBRS, Rape is the carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

   b. **Sodomy.** As defined in NIBRS, Sodomy is the oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

   c. **Sexual Assault with an Object.** As defined in NIBRS, Sexual Assault with an object is the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the person, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;
d. Fondling. As defined in NIBRS, Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

e. Incest. As defined in NIBRS, Incest is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

f. Statutory Rape. As defined in NIBRS, Statutory Rape is nonforcible sexual intercourse with a person who is under the statutory age of consent.

(3) Sexual Exploitation. Sexual Exploitation is taking sexual advantage of another, for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples include, but are not limited to: recording, photographing or transmitting sexual photos, sounds, images or other information; voyeurism; indecent exposure; prostituting or soliciting another person; inducing incapacitation to commit acts of sexual misconduct; knowingly exposing another person to sexually transmitted infection (STI) or human immunodeficiency virus (HIV).

(4) Stalking. As defined in 34 U.S.C. 12291(a)(30), Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress.

D. Consent. Consent is defined as words or conduct indicating a freely given agreement to have sexual intercourse or to participate in sexual activities. Silence or lack of resistance does not imply consent. Consent for one sexual act does not imply consent for any subsequent sexual act and consent must be on-going. Sexual contact will be considered “without consent” if no clear consent, verbal or non-verbal is given; if inflicted through force, threat of force, or coercion; or if inflicted upon a person who is unconscious or who otherwise reasonably appears to be without the mental or physical capacity to consent.

(1) Age of Consent. The age of consent in the District of Columbia is sixteen (16) years of age. Individuals younger than 16 years of age are legally incapable of giving consent to sexual activity with an individual who is four or more years older.

(2) Coerce. Coerce is to force one to act based on fear of harm to self or others. Means of coercion may include, but are not limited to, pressure, expressed or implied threats, intimidation, or the threat or use of physical force. Coercion also
includes forcing a person to act by impairing the faculties of that person through
the administration of a substance.

(3) **Incapacitation.** Incapacitation is defined as a temporary or permanent state in
which an individual is unable to give consent to sexual contact due to mental,
developmental, or physical impairment, to include incapacitation voluntarily or
involuntarily, from alcohol or drug use. States of incapacitation include but are not
limited to: sleep, unconsciousness, intermittent consciousness, or any other state
where an individual is unaware that sexual contact is occurring. Where alcohol or
drug use is involved, incapacitation is a state beyond mere intoxication, or
impairment of judgment.

**IV. POLICY**

**A. PROCESS & REPORTING**

The following roles and responsibilities and complaint resolution process have been
established to assist the University in ensuring an educational environment and workplace free from
discrimination, discriminatory harassment, and sexual misconduct.

1. **Duty to Report Complaints.** AU Community members employed by the university (including
student employees such as teaching assistants, resident assistants, and orientation leaders) and
individuals covered by the University’s Out-of-State Staffing Policy have a duty to report
Prohibited Conduct to the Assistant Vice President for Equity (See Section IV (E) below for
contact information), when they become aware of such conduct. AU Community members who
have a duty to report Prohibited Conduct may be subject to discipline or corrective action for
failing to fulfill this obligation.

2. **Option to Report Complaints.** AU students who are not employed by the University are highly
encouraged to report complaints that they are aware of to the Assistant Vice President for Equity
or seek support from a Confidential Resource (See Section IV (A)(4) below for contact
information), but they do not have a duty to do so.

3. **Complaint Resolution.** Incidents reported to the Assistant Vice President for Equity will be
resolved through informal procedures or formal investigations. AU Community members are
expected to cooperate in the resolution or investigation of complaints.

4. **Confidential Support, Medical, and Counseling Resources for Students (“Confidential
Resources”).** Community Members are encouraged to utilize the following resources for
confidential discussion and support related to discrimination or discriminatory harassment and its
effects. Because of the confidentiality afforded to these relationships, however, community
members should know that these confidential resource persons are not in a position to report the
discrimination to University officials or to intervene to end the misconduct. To ensure University
involvement, students must report the discrimination through either the informal or formal
reporting process, as detailed in this Policy. Confidential Resources include:
Student Confidential Resources

a) **Victim Advocates** and all full-time Health Promotion & Advocacy Center staff – Office of Advocacy Services for Interpersonal and Sexual Violence (OASIS), Health Promotion & Advocacy Center; (202) 885-7070; OASIS@american.edu; www.american.edu/ocl/OASIS

b) **Professional Counselors** – Counseling Center; (202) 885-3500 (including the satellite location in the Washington College of Law); www.american.edu/ocl/counseling

c) **Medical Providers** – Student Health Center; (202) 885-3380; shc@american.edu; Professional Counselors – Faculty and Staff Assistance Program (FSAP); (202) 885-2593; fsap@american.edu; https://www.american.edu/hr/worklife/fsap.cfm

d) **Ordained Clergy** – Kay Spiritual Life Center; (202) 885-3320; kslc@american.edu; www.american.edu/ocl/kay

Faculty/Staff Confidential Resources

a) **Professional Counselors** – Faculty and Staff Assistance Program (FSAP); (202) 885-2593; fsap@american.edu; https://www.american.edu/hr/worklife/fsap.cfm

5. **Where to File a Complaint.** The Assistant Vice President for Equity and Title IX Officer is charged with resolving complaints and ensuring the University’s compliance with this Policy and civil rights laws, equal opportunity, and non-discrimination. The following is where to file complaints under this Policy:

<table>
<thead>
<tr>
<th>Assistant Vice President for Equity and Title IX Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office of Equity and Title IX</td>
</tr>
<tr>
<td>4400 Massachusetts Avenue, NW</td>
</tr>
<tr>
<td>Washington, DC 20016</td>
</tr>
<tr>
<td>Phone: 202-885-8080</td>
</tr>
<tr>
<td>Email: <a href="mailto:TitleIX@american.edu">TitleIX@american.edu</a> for complaints and reports for sexual misconduct; and <a href="mailto:equityoffice@american.edu">equityoffice@american.edu</a> for complaints and reports for other discrimination.</td>
</tr>
</tbody>
</table>

In addition to the above duties, the Assistant Vice President for Equity will:

a) Coordinate, plan, and manage the discrimination, discriminatory harassment, sexual harassment, sexual misconduct, dating and domestic violence, rape, sexual assault and stalking education and training programs, including bystander intervention. The programs will include wide dissemination of this Policy to the University Community; provide
educational materials to promote compliance with the Policy and familiarity with reporting procedures; and training University employees responsible for reporting or responding to reports of discrimination.

b) Develop and implement consistent procedures to provide for prompt and effective response to reports of discrimination in accordance with this Policy.

c) Coordinate the maintenance of records of reports of discrimination complaints and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.

d) Identify and address patterns or systemic problems of discrimination.

e) Answer questions and be available to meet with students, employees, and others about this Policy.

f) Submit a confidential annual report to the Office of the President on aggregate data of complaint activity during the preceding academic year that comports with the confidentiality requirements of this Policy.

g) Conduct periodic campus climate surveys.

h) Receive periodic training on issues related to Prohibited Conduct and how to conduct an investigation process that promotes accountability, equity and fairness.


6. INITIATING A COMPLAINT & COMPLAINT PROCEDURES

Community members who feel that they have been subjected to Prohibited Conduct ("Complainant") may file a complaint with the University as described below. A complaint should be filed as soon as possible following the alleged Prohibited Conduct. Timely complaint filing gives the University the best chance to resolve the problem. A delay in filing a complaint may severely limit available remedies. If the respondent is no longer affiliated with the University (e.g., former student or former employee), the University will take appropriate action within its authority, including referring the Complainant to external reporting options.

The specific procedures for reporting, investigating, and resolving Prohibited Conduct are based upon the nature of the Respondent’s (the individual accused of violating this Policy) relationship to the University (student, staff, or faculty) but all referenced procedures, whether for students, staff, or faculty, generally follow STEP ONE, STEP TWO, AND STEP THREE described below.

The procedures provide for a thorough and impartial investigation that afford all parties notice and opportunity to present evidence in determining whether a policy violation has occurred. The University applies the preponderance of evidence standard in determining whether this Policy has

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2 For students, all procedures, including sanctions and appeal, are detailed in the Student Conduct Code. For staff, Human Resources will take action in accordance with the Staff Personnel Policies Manual Disciplinary Policy. For Faculty, the Provost's Office will take action in accordance with the Faculty Manual Disciplinary Procedures.
been violated. Preponderance of evidence means it is more likely than not that a policy violation occurred.

a) **STEP ONE (Where to File/Report a Complaint and Estimated Resolution Timelines).**

**Notify Designated Official.** Notify the Assistant Vice President for Equity as quickly as possible of violations of this Policy.

**Option to File a Criminal Report.** Simultaneous to pursuing resolution through the University’s internal process, the Complainant may also file a criminal report with the Metropolitan Police Department or the appropriate law enforcement agency for any criminal conduct. The University will not delay its investigation if criminal charges are filed. At the request of law enforcement authorities, however, the University may postpone the University investigation and proceeding while the authorities gather evidence.

**Interim Measures.** Once a complaint has been reported and until the resolution of the matter, the Assistant Vice President for Equity or designee may take interim measures to ensure safety and non-retaliation for all parties. Examples of interim measures include separation of the parties, no-contact directives, and alternative academic or housing arrangements.

**Advisors.** In cases of stalking, domestic violence, dating violence and sexual assault, the Complainant and the Respondent may be advised and accompanied by advisors of their choice during any meeting related to the complaint. In all other cases, advisors are allowed in accordance with the relevant procedures. The advisor may not participate directly in any meeting or contact the Assistant Vice President for Equity or designee.

**Request for Disability Accommodations.** A party may contact the Assistant Vice President for Equity to request an accommodation for a disability to participate in the grievance process. A request for an accommodation will be reviewed by the appropriate University office that handles accommodation requests and evaluated pursuant to the applicable office’s reasonable accommodation procedures. Generally, a party should make a request promptly and in advance of when the accommodation is needed to allow a reasonable amount of time to review the request. However, a response to an immediate need for accommodation will be considered to the fullest extent possible.

**Estimated Timeline for Resolution for Complaints.** At the initial meeting with the Complainant, the Assistant Vice President for Equity or designee will explain the resolution procedures that are identified below. The University strives to complete resolution of complaints within 90 days from when the University has notice of the grievance. However, during winter breaks and summer sessions, when witnesses may not be available or disciplinary panels cannot be convened, the case is complex, or other comparable situations, the 90-day timeframe may be adjusted to accommodate these circumstances. Where the estimated timeline cannot be adhered to, the Assistant Vice President for Equity or designee will notify the parties and provide an anticipated completion date. The 90-day time frame does not include the time needed for the University to process appeals.
b) **STEP TWO (Informal Resolution).** The University encourages, but does not require, informal resolution when possible. The Assistant Vice President for Equity or designee may elect to bypass the informal procedures because of the severity of the allegation or complexity of the complaint.

**Informal Resolution.** The goal of informal resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Informal resolution may include inquiry into the facts, but typically does not include a formal investigation. These informal efforts may include addressing the Respondent directly; participating in a facilitated meeting with the appropriate University official; or participating in mediation. The informal resolution could include by way of example: separating the parties; referring the parties to counseling; conducting targeted educational and training programs; or providing remedies for the individual harmed by the alleged discrimination. If the matter is resolved informally to the satisfaction of all parties, the Assistant Vice President for Equity or designee shall maintain a record of the complaint and its resolution. Informal resolution is not appropriate for complaints of Sexual Assault, Dating Violence, Domestic Violence, Sexual Exploitation, or Stalking.

c) **STEP THREE (Formal Resolution).** If informal resolution is unsuccessful or not appropriate as determined by the Assistant Vice President for Equity or designee, the Complainant, or the Respondent, a formal complaint may be filed with the Assistant Vice President for Equity for investigation.

**Investigation.** Depending on the nature of the allegations, the investigation could include interviews with the Complainant, the Respondent and/or witnesses; review of written documentation and relevant policies; review of evidence; and any other steps necessary to thoroughly investigate the allegations. During the investigation, the Complainant and Respondent will have an equal opportunity to identify witnesses and evidence that the Assistant Vice President for Equity or designee may consider.

**Resolution.** At the conclusion of the investigation, the Assistant Vice President for Equity or designee will issue simultaneous, written notifications of the outcome of the investigation to the concerned parties, including referral to the appropriate disciplinary procedures. The range of sanctions includes, but is not limited to a written censure, a ban from specific areas of campus, loss of specific privileges, community service, transfer or loss of on-campus housing privileges, disciplinary probation, mandatory training, suspension, dismissal and disciplinary action up to and including termination from employment.

B. **FALSE OR FRIVOLOUS CHARGES**

The University encourages good faith reporting of violations of this Policy. This Policy shall not be used to bring false or frivolous charges against students, faculty, or staff. Those bringing such charges may be subject to disciplinary action. Failure to prove a complaint, does not itself constitute a false or frivolous complaint.

C. **CONFIDENTIALITY & THE UNIVERSITY’S OBLIGATION TO RESPOND TO COMPLAINTS**
The University will maintain the confidentiality of information shared throughout the complaint process. However, disclosures may be required for the purpose of fact-finding or efforts to resolve the complaint. In the limited instances where disclosures must be made by the University, disclosures will be limited to those persons necessary to proceed in the fact-finding process or to otherwise address the grievance. All persons involved in the grievance will be advised of the importance of confidentiality throughout the process.

In some cases, Complainants may request that their names be kept confidential and that the University take no action on their report (“confidential reporting”). The Assistant Vice President for Equity or designee will evaluate each request and advise the Complainant that “confidential reporting” will limit the University’s ability to respond fully to the matter, including pursuing disciplinary action against the Respondent. Nevertheless, in most instances, the University will honor such confidentiality requests unless to do so would impede its ability to provide a safe and nondiscriminatory environment for the AU Community.

D. RECORDS

Records of informal and formal complaints will be maintained by the Assistant Vice President for Equity. Complaints against faculty, staff, or students that result in a personnel or disciplinary action will also be a part of the respondent’s personnel or disciplinary record. All records are confidential with access only to individuals with a legitimate need to know. Records of complaints will be kept on file in accordance with the University’s Records Retention and Disposal Policy.

V. EFFECTIVE DATE AND REVISIONS

This Policy is revised effective August 14, 2020.

This Policy was approved August 1, 2011 and amended August 1, 2014, August 31, 2015, August 31, 2017, March 19, 2018, August 28, 2019, and August 14, 2020. Replaces Faculty Sexual Harassment Policy, Student Sexual Harassment Policy, Staff EEO Policy, Staff Sexual Harassment Policy, University-Wide Discrimination and Discriminatory Harassment Policy.
APPENDIX B:

American University Title IX and Sexual Harassment Policy
University Policy: Title IX Sexual Harassment Policy

Policy Category: Community

Subject: Sexual Harassment, Dating and Domestic Violence, Sexual Assault, and Stalking Related To Title IX

Offices Responsible for Review of the Policy: Human Resources, Dean of Faculty, Campus Life

Supplemental Documents: Related Local and Federal Laws:
- Title IX of the Education Amendments of 1972 prohibits sex discrimination by educational institutions (“Title IX”).
- Violence Against Women Act 2013 addresses violent crimes against women.


I. SCOPE

Members of the University community covered by this Policy include, but are not limited to, faculty, staff, and students of American University, and related third-parties (such as applicants for admission and employment, vendors, guests, contractors, and program participants) (collectively "AU Community"). This Policy applies to all University education programs and activities in the United States, whether on or off campus. The University will address complaints related to an AU Community member’s participation in those programs and activities.

This Policy addresses the procedures for reporting and responding to incidents of sexual harassment as defined in this Policy that occurs in the University’s education programs and activities and occurs in the United States. This Policy is intended to be consistent with the University's compliance obligations under the Title IX regulations issued by the U.S. Department of Education.

This Policy does not cover incidents of sexual harassment that (1) are not so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity; (2) do not occur in the University’s education programs and activities; or (3) do not occur in the United States. If those incidents of alleged sexual harassment fall outside the scope or jurisdiction of Title IX and this Policy, then the University’s Discrimination and Non-Title IX Sexual Misconduct Policy will address the procedures for reporting and responding to those incidents.

II. POLICY STATEMENT

American University does not discriminate on the basis of sex in the education program or activity that it operates, which includes admission and employment. Consistent with the procedures set forth and referenced in this Policy, the University will take steps to eliminate Title IX Sexual
Harassment, prevent its recurrence, and remedy any discriminatory effects for members of the AU Community.

It is the responsibility of every member of the AU Community to foster an environment free of Title IX Sexual Harassment. All members of the AU Community are encouraged to take reasonable and prudent actions to prevent or stop an act of Title IX Sexual Harassment. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, or seeking assistance from a person in authority.

The procedures contained in this Policy are designed to enable the University to respond to reports in good faith, in accordance with applicable law, and in a manner that promotes fairness, impartiality, and prompt resolution for all parties. Not all circumstances can be fully accounted for in this Policy. The University reserves flexibility and the right to modify its procedures or to take other administrative action as it deems appropriate to address applicable legal requirements or unique circumstances.

The University also does not tolerate other types of sexual harassment and sexual misconduct that fall outside Title IX Sexual Harassment covered under this Policy. Allegations of discrimination and other misconduct on the basis of sex that are not covered by this Policy may be governed by other university policies, as appropriate, including but not limited to:

- Student Conduct Code
- Discrimination and Non-Title IX Sexual Misconduct Policy
- Faculty Manual
- Staff Personnel Policies Manual

If an alleged incident of sexual misconduct does not fall within the scope of this Policy, the alleged incident of sexual misconduct may be in violation of another University policy and will be handled under the applicable University process/procedure. Therefore, the University strongly encourages AU Community members to consult the University’s Discrimination and Non-Title IX Sexual Misconduct Policy to understand how an alleged incident of sexual misconduct that does not fall within the scope of this Policy is addressed.

In some cases, reports of Title IX Sexual Harassment may include additional allegations of discrimination or misconduct that are not covered by this Policy. The Title IX Coordinator or designee, in consultation with the appropriate university administrator responsible for resolving the additional allegations, will assess the information in order to determine which process will be used for resolving the additional allegations. This is to avoid confusion about parties/facts/procedures, and to prevent duplication of resolution efforts.

This Policy supersedes any conflicting information in any other University policy with respect to the definitions or procedures relating to Title IX Sexual Harassment within the scope of this Policy, and provides the exclusive remedy for alleged Title IX Sexual Harassment within the scope of this Policy.

Any inquiries about the application of this Policy may be referred to the University’s Title IX Coordinator, to the United States Department of Education Assistant Secretary, or both.
Complaint Resolution

The University will respond promptly to Title IX Sexual Harassment, as defined under this Policy, when the University has actual knowledge of Title IX Sexual Harassment in its education programs and activities that occurs against a person in the United States. The University will take appropriate action in response to a report of Title IX Sexual Harassment pursuant to this Policy. AU Community members who have relevant information are expected to cooperate with the Title IX Sexual Harassment grievance process.

Retaliation

The University prohibits retaliation against a member of the AU Community for reporting and/or filing a Formal Complaint of Title IX Sexual Harassment, assisting in the reporting and/or filing of a Formal Complaint, and/or participating in the investigation or resolution of a Formal Complaint. Retaliation is defined as an adverse action or other form of negative treatment, including, but not limited to, intimidation, threats, coercion, discrimination or harassment, carried out in response to a good-faith reporting of, or opposition to, discrimination, harassment, or related misconduct; an individual’s or group’s participation, including testifying or assisting in the University’s grievance process or response to a Formal Complaint; an individual’s or group’s refusal to participate in the University’s grievance process or response to a Formal Complaint; or other forms of good faith opposition to what an individual reasonably believes to be Title IX Sexual Harassment under this Policy. To be a Policy violation, the challenged actions or treatment must be sufficiently serious to discourage a reasonable person from further reporting, participating, or opposing participation. Charging an individual with a Policy violation for making a materially false statement, in bad faith, in the course of the University’s complaint process or in response to a complaint does not constitute Retaliation.

III. DEFINITIONS

A. **Actual Knowledge.** Actual knowledge means notice of Title IX Sexual Harassment or allegations of Title IX Sexual Harassment to the University’s Title IX Coordinator, Dean of Students, Vice President of Campus Life, Deputy Provost, Dean of Faculty, Provost, Deans, Assistant Vice President of Human Resources, and Vice President of People and External Affairs.

B. **Complainant.** Complainant means any AU Community member who is alleged to have been the subject of conduct that could constitute Title IX Sexual Harassment under the terms of this Policy.

C. **Calendar Day.** Calendar day is defined as every day of the month, excluding weekends and university holidays, in which the University is open to the public for conducting business.

D. **Consent.** Consent is defined as words or conduct indicating a freely given agreement to have sexual intercourse or to participate in sexual activities. Silence or lack of resistance
does not imply consent. Consent for one sexual act does not imply consent for any subsequent sexual act, and consent must be on-going. Sexual contact will be considered “without consent” if no clear consent, verbal or non-verbal, is given; if inflicted through force, threat of force, or coercion; or if inflicted upon a person who is unconscious or who otherwise reasonably appears to be without the mental or physical capacity to consent.

(1) **Age of Consent.** The age of consent in the District of Columbia is sixteen (16) years of age. Individuals younger than 16 years of age are legally incapable of giving consent to sexual activity with an individual who is four or more years older.

(2) **Coerce.** Coerce is to force one to act based on fear of harm to self or others. Means of coercion may include, but are not limited to, pressure, expressed or implied threats, intimidation, or the threat or use of physical force. Coercion also includes forcing a person to act by impairing the faculties of that person through the administration of a substance.

(3) **Incapacitation.** Incapacitation is defined as a temporary or permanent state in which an individual is unable to give consent to sexual contact due to mental, developmental, or physical impairment, to include incapacitation, voluntarily or involuntarily, from alcohol or drug use. States of incapacitation include, but are not limited to: sleep, unconsciousness, intermittent consciousness, or any other state in which an individual is unaware that sexual contact is occurring. Where alcohol or drug use is involved, incapacitation is a state beyond mere intoxication, or impairment of judgment.

E. **Education Program or Activity.** Education program or activity means every program or activity under the operations of the University, whether on or off campus. Education program or activity includes locations, events, or circumstances in which the University exercised substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

F. **Formal Complaint.** Formal Complaint means a document filed by a Complainant, or signed by the Title IX Coordinator, alleging Title IX Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Title IX Sexual Harassment.

(1) **Document Filed by a Complainant.** Document filed by a Complainant means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. A third party can report an allegation of Title IX Sexual Harassment committed against another member of the AU Community, but cannot file a Formal Complaint on that community member’s behalf.
G. **Preponderance of the Evidence.** Preponderance of the Evidence means a measure of proof that would lead a reasonable person to accept as “more likely than not” that a fact is true or that an incident occurred.

H. **Respondent.** Respondent means an AU Community member, within the United States, who has been reported to have been the perpetrator of conduct that could constitute Title IX Sexual Harassment.

I. **Supportive Measures.** Supportive Measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures are designed to restore or preserve access to the University’s education programs and activities, and to protect the safety of all parties and the University’s educational environment while not being punitive in nature or unreasonably burdensome to any party. The Title IX Coordinator is responsible for ensuring the implementation of Supportive Measures and coordinating the University's response with the appropriate offices on campus. The Title IX Coordinator or designee has the discretion to impose and/or modify any Supportive Measure based on all available information, and is available to meet with a Complainant or Respondent to address any concerns about the provision of Supportive Measures. The University will maintain the privacy of any Supportive Measures provided under this Policy to the extent that maintaining such confidentiality will not impair the University’s ability to provide the Supportive Measures, and the University will promptly address any violation of a Supportive Measure.

J. **Title IX Sexual Harassment.** Title IX Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

1. A University employee conditioning the provision of a University aid, benefit, or service on an individual's participation in unwelcome sexual conduct;

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity;

3. Sexual Assault. As defined in 20 U.S.C. § 1092(f)(6)(A)(v), Sexual Assault constitutes any sexual act directed against another person, without consent of the person, including instances in which the person is incapable of giving consent. Sexual Assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (FBI). The following are types of Sexual Assault under the FBI's National Incident-Based Reporting System (“NIBRS”) uniform crime reporting system:
(a) Rape. As defined in NIBRS, Rape is the carnal knowledge of a person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

(b) Sodomy. As defined in NIBRS, Sodomy is the oral or anal sexual intercourse with another person, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

(c) Sexual Assault with an Object. As defined in NIBRS, Sexual Assault with an object is the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the person, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity;

(d) Fondling. As defined in NIBRS, Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the person, including instances where the person is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

(e) Incest. As defined in NIBRS, Incest is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(f) Statutory Rape. As defined in NIBRS, Statutory Rape is nonforcible sexual intercourse with a person who is under the statutory age of consent.

(4) Dating Violence. As defined in 34 U.S.C. § 12291(a)(1), Dating Violence is defined as violence committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the other person; and (ii) where existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(5) Domestic Violence. As defined in 34 U.S.C. § 12291(a)(8), Domestic Violence is violence committed by a current or former spouse or intimate partner of the person, by an individual with whom the person shares a child in common, by an individual who is cohabitating with or has cohabitated with the person as a spouse or intimate partner, by an individual similarly situated to a spouse of the
person under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any individual against the person who is protected from that individual's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

(6) Stalking. As defined in 34 U.S.C. 12291(a)(30), Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress.

IV. POLICY

A. REPORTING TITLE IX SEXUAL HARASSMENT

1. **Duty to Report.** AU Community members employed by the University (including student employees, such as teaching assistants, resident assistants, and orientation leaders) and individuals covered by the University’s Out-of-State Staffing Policy have a duty to report Title IX Sexual Harassment to the Title IX Coordinator (See Section IV(A)(4) below for contact information), when they become aware of such conduct. AU Community members who have a duty to report Title IX Sexual Harassment may be subject to discipline or corrective action for failing to fulfill this obligation.

2. **Option to Report.** AU students who are not employed by the University are highly encouraged to report any Title IX Sexual Harassment of which they become aware to the Title IX Coordinator (See Section IV(A)(4) below for contact information) or to seek support from a Confidential Resource (See Section (A)(3) below for contact information), but they do not have a duty to do so.

3. **Confidential Support, Medical, and Counseling Resources (“Confidential Resources”).** AU Community members are encouraged to utilize the following resources for confidential discussion and support related to Title IX Sexual Harassment and its effects. Because of the confidentiality afforded to these relationships, however, community members should know that these confidential resource persons are not in a position to report Title IX Sexual Harassment to the Title IX Coordinator or to intervene to end the Title IX Sexual Harassment. To ensure University involvement, AU Community members must report Title IX Sexual Harassment to the Title IX Coordinator, as detailed in this Policy. Confidential Resources include:

   **Student Confidential Resources**
   
   a. **Victim Advocates** and all full-time Health Promotion & Advocacy Center staff – Office of Advocacy Services for Interpersonal and Sexual Violence (OASIS), Health Promotion & Advocacy Center; (202) 885-7070; OASIS@american.edu; [www.american.edu/ocl/OASIS](http://www.american.edu/ocl/OASIS)
   
   b. **Professional Counselors** – Counseling Center; (202) 885-3500 (including the satellite location in the Washington College of Law); [www.american.edu/ocl/counseling](http://www.american.edu/ocl/counseling)
c. **Medical Providers** – Student Health Center; (202) 885-3380; shc@american.edu;

d. **Ordained Clergy** – Kay Spiritual Life Center; (202) 885-3320; kslc@american.edu; www.american.edu/oel/kay

*Faculty/Staff Confidential Resources*

a) **Professional Counselors** – Faculty and Staff Assistance Program (FSAP); (202) 885-2593; fsap@american.edu; https://www.american.edu/hr/worklife/fsap.cfm

4. **Reports to Title IX Coordinator.** The duty to report as described in Sections IV(A)(1) and (2) of this Policy may not trigger an institutional response to a report of Title IX Sexual Harassment. The University will only respond to reports of Title IX Sexual Harassment once the University has actual knowledge of the Title IX Sexual Harassment in the University’s education program or activity against an AU Community member in the United States. **Therefore, AU Community members who feel that they have been subjected to Title IX Sexual Harassment and are seeking an institutional response to Title IX Sexual Harassment should directly contact the Title IX Coordinator.** The following is the Title IX Coordinator’s contact information where reports and Formal Complaints of Title IX Sexual Harassment may be filed:

<table>
<thead>
<tr>
<th>UNIVERSITY TITLE IX COORDINATOR</th>
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</thead>
<tbody>
<tr>
<td>Assistant Vice President for Equity and Title IX Officer</td>
</tr>
<tr>
<td>Office of Equity and Title IX</td>
</tr>
<tr>
<td>4400 Massachusetts Avenue, NW</td>
</tr>
<tr>
<td>Washington, DC 20016</td>
</tr>
<tr>
<td>Phone: 202-885-8080</td>
</tr>
<tr>
<td>Email: <a href="mailto:TitleIX@american.edu">TitleIX@american.edu</a></td>
</tr>
</tbody>
</table>

5. **Timeframes for Reporting.** In order to maintain and support a community that is respectful and free from Title IX Sexual Harassment and related misconduct and to maximize the University’s ability to respond promptly and effectively, individuals are urged to come forward with reports of Title IX Sexual Harassment as soon as possible. Complainants and other reporting individuals are encouraged to seek assistance and to utilize available resources if they feel that they have been subjected to Title IX Sexual Harassment. The sooner a report is made, the more effectively it can be investigated, e.g. while witnesses are still available, memories are fresh, and documentation may still be available. There is, however, no time limitation for reporting Title IX Sexual Harassment under this Policy. In some cases, e.g., where the individual accused of Title IX Sexual Harassment is no longer affiliated with the University, the University may not be able to take disciplinary action. However, the University will strive to provide other fair and reasonable measures to support the Complainant and minimize any future misconduct.

6. **Initial Response to a Report.** Once the University has actual knowledge of a report of Title IX Sexual Harassment, the Title IX Coordinator or designee will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant’s
wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without filing a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint.

7. **Option to File a Criminal Report.** Simultaneous to pursuing resolution through the University's internal process, the Complainant may also file a criminal report with the Metropolitan Police Department or the appropriate law enforcement agency for any criminal conduct. The University will not delay its grievance process if criminal charges are filed. At the request of law enforcement authorities, however, the University may postpone the University investigation and/or proceedings while the authorities gather evidence.

B. **SUPPORTIVE MEASURES, EMERGENCY REMOVAL & ADMINISTRATIVE LEAVE**

1. **Supportive Measures Available to Complainants and Respondents.** Once the University has actual knowledge of a report of Title IX Sexual Harassment, the Title IX Coordinator or designee may provide the Complainant or the Respondent with Supportive Measures. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment, or deter Title IX Sexual Harassment. Supportive Measures may include, but are not limited to: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

2. **Supportive Measures Implementation.** The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. The Title IX Coordinator or designee has the discretion to continue Supportive Measures for the Complainant or the Respondent even after a determination of non-responsibility.

3. **Confidentiality of Supportive Measures.** The University will maintain as confidential any Supportive Measures provided to the Complainant or the Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures.

4. **Emergency Removal of a Respondent.**

   a. The Title IX Coordinator or designee, in consultation with the University’s Threat Assessment and Management Team as necessary, retains the right to remove a Respondent from some or all of the University’s education program or activity on an emergency basis.
b. A Respondent may be removed on an emergency basis when, based on an individualized safety and risk analysis, the University determines that an immediate threat to the physical health or safety of any individual arising from the allegations of Title IX Sexual Harassment justifies removal.

c. A Respondent who is removed from the University’s education programs and activities will be provided notice and an opportunity to challenge the decision immediately following the removal. The Respondent must submit the challenge in writing, and include any documentation that is supportive of the challenge to the appropriate University official. If the Respondent is a student, then the Dean of Students or designee will render a final decision regarding the challenge to the emergency removal. If the Respondent is a faculty member, then the Deputy Provost or designee will render a final decision on the challenge to the emergency removal. If the Respondent is a staff or related third party, then the Assistant Vice President of Human Resources or designee will render the final decision on the challenge to the emergency removal.

5. **Administrative Leave of an Employee/Faculty Respondent.** The Title IX Coordinator or designee, in consultation with other University administrators as necessary, may place a non-student employee Respondent or a faculty Respondent on administrative leave during the pendency of the grievance process. An employee alleged to have committed Title IX Sexual Harassment will not be placed on administrative leave unless and until a Formal Complaint has been filed with the University. The University, in its discretion and based on the circumstances, will determine whether any administrative leave imposed is to be imposed with or without pay or benefits.

C. **FILING A FORMAL COMPLAINT**

1. **Formal Complaints Filed by Complainants.** Complainants seeking formal resolution must file a Formal Complaint, as defined by this Policy, with the Title IX Coordinator. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information provided in Section IV (A)(4) of this Policy. The Formal Complaint must contain the Complainant’s physical or digital signature, or otherwise indicate that the Complainant is the person filing. A Complainant may file a Formal Complaint at any time while the Complainant is participating in, or attempting to participate in the University’s education programs or activities.

2. **Formal Complaints Filed by the Title IX Coordinator.** The Title IX Coordinator has discretion to file a Formal Complaint about reported Title IX Sexual Harassment even if the Complainant chooses not to participate in the process and/or does not wish to file a report. When the Title IX Coordinator has determined that a formal resolution of a report of Title IX Sexual Harassment is warranted, the Title IX Coordinator may file a Formal Complaint, as
defined by this Policy. For the purposes of these Formal Complaints, the Title IX Coordinator is not a Complainant or otherwise a party.

3. **Response to Formal Complaint.** In response to receiving the Formal Complaint, the University will follow the grievance process as specified in this Policy. The grievance process presumes that the Respondent is not responsible for the alleged Title IX Sexual Harassment until all of the relevant evidence has been examined and a determination regarding responsibility is made at the conclusion of the grievance process. The grievance process outlined in this Policy will treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility for Title IX Sexual Harassment has been made against the Respondent, and by following a grievance process that complies with this Policy before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Respondent.

4. **Estimated Timeline for Resolution for Title IX Complaints.** At the initial meeting with the Complainant, the Title IX Coordinator or designee will explain the grievance process that is identified below. The University strives to complete resolution of Formal Complaints within 94 calendar days from when the University has notice of the Formal Complaint. To ensure timely resolution, the grievance process will take place during all times that the University is open, including summer and winter breaks. However, reasonable adjustments to the timeline of the grievance process may be made for good cause, such as to ensure participation of the parties and/or witnesses, hearing and sanctioning panels cannot be convened, the case is complex, or other comparable situations. Where the estimated timeline cannot be adhered to, the Title IX Coordinator or designee will notify the parties in writing explaining the reason for the delay and providing an anticipated completion date. The 94 calendar day time frame does not include the time needed for the University to process appeals.

D. **INFORMAL RESOLUTION**

1. **Informal Resolutions Permitted Generally.** The University encourages, but does not require, informal resolution when possible. The goal of informal resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Informal resolution may include inquiry into the facts, but typically does not include a formal investigation. These informal efforts may include: addressing the Respondent directly; participating in a facilitated meeting with the appropriate University official(s); or participating in mediation. The informal resolution could include, by way of example: separating the parties; referring the parties to counseling; conducting targeted educational and training programs; or providing remedies for the individual(s) harmed by the alleged Title IX Sexual Harassment. Informal resolution may not be offered to the parties unless a Formal Complaint is filed.

2. **Informal Resolution Not Available in Certain Circumstances.** The Title IX Coordinator or designee may elect to bypass the informal procedures because of the severity of the allegation or complexity of the Formal Complaint. Informal resolution is not permitted for Formal
Complaints filed by a student Complainant against an employee Respondent, or for any allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

3. **Informal Resolution Requirements.** At any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution provided that:

   a. Written notice is given to the parties that discloses the allegations within the Formal Complaint; the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, provided, however, that, at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint; and any consequences resulting from participating in the informal resolution process; and

   b. Obtains the parties’ voluntary, written consent to the informal resolution process.

4. **Informal Resolution Voluntary.** The University will not compel a Complainant or Respondent to engage in any form of informal resolution. Either party can request to end informal resolution and resume the formal grievance process with respect to the Formal Complaint at any time prior to agreeing to a resolution.

5. **Completion of Informal Resolution.** If an agreement acceptable to the University, the Complainant, and the Respondent is reached through informal resolution, the terms of the agreement are implemented and the matter is deemed resolved and closed. If an agreement is not reached, and the Title IX Coordinator or designee determines that further action is necessary, or if a Respondent fails to comply with the terms of the informal resolution, the matter may be referred for an investigation and formal resolution. Where the Complainant or the Respondent withdraws from informal resolution, or informal resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the alternative resolution may be considered in a subsequent investigation and formal resolution. The Title IX Coordinator or designee shall maintain a record of the Formal Complaint and its resolution.

   **E. GRIEVANCE PROCESS: DISMISSAL OF FORMAL COMPLAINT**

1. **Mandatory Dismissal of Formal Complaint.** If the Title IX Coordinator or designee determines that the conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment, as defined by this Policy, even if proven; did not occur in a University’s education program or activity; or did not occur against a person in the United States, then the Title IX Coordinator or designee must dismiss the Formal Complaint with regard to that conduct.
2. **Referral to Other University Procedures.** In the event that the Title IX Coordinator or designee dismisses a Formal Complaint under Section IV (E)(1) of this Policy, but determines that the conduct alleged in the Formal Complaint may be in violation of another University policy, then the Title IX Coordinator or designee will refer the conduct alleged in the Formal Complaint to the appropriate University office for resolution under the applicable University process/procedure.

3. **Permissible Dismissal of Formal Complaint.** The Title IX Coordinator or designee may dismiss a Formal Complaint or any of the allegations within a Formal Complaint, if, at any time during the grievance process: a Complainant notifies the Title IX Coordinator, in writing, that the Complainant would like to withdraw the Formal Complaint or any allegations in the Formal Complaint; the Respondent is not enrolled or employed by the University; or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or any allegations in the Formal Complaint.

4. **Notice and Appeal of Dismissal.** Upon dismissing a Formal Complaint, or a portion of a Formal Complaint, the Title IX Coordinator or designee will promptly notify both parties, simultaneously and in writing, of the dismissal and explain the reasons of the dismissal. The decision to dismiss a Formal Complaint may be appealed pursuant to Section IV(K) of this Policy.

**F. GRIEVANCE PROCESS: CONSOLIDATION OF FORMAL COMPLAINTS**

1. **Consolidation of Formal Complaints.** The Title IX Coordinator or designee has the discretion to consolidate multiple Formal Complaints, or allegations related to those complaints, into a single investigation if the allegations arise out of the same facts or circumstances. Consolidation might involve multiple Complainants and a single Respondent, multiple Respondents, or multiple Formal Complaints between the same Complainant and Respondent.

**G. GRIEVANCE PROCESS: NOTICE OF ALLEGATIONS**

1. **Notice of Allegations.** Upon receipt of a Formal Complaint, the Title IX Coordinator or designee will provide written notice to the Complainant and the Respondent who are known. The notice of allegations will include:

   a. Notice of the University’s grievance process described in this Policy, including any informal resolution process;

   b. Notice of the conduct alleged potentially constituting Title IX Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any
initial interview. Sufficient details include the identities of the parties, if known, the conduct allegedly constituting Title IX Sexual Harassment, and the date and location of the alleged incident;

c. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;

d. Information that each party may have an advisor of their choice, who may be an attorney as described in Section IV(H)(5) of this Policy;

e. Information that the parties will be given equal opportunities to inspect and review evidence as described in Section V(H)(10) of this Policy;

f. Information of any applicable University policies that prohibit knowingly making false statements or knowingly submitting false information during the grievance process; and

g. The University’s prohibition against retaliation.

2. Supplemental Notice of Allegations. If, during the course of the investigation, there are additional allegations of Title IX Sexual Harassment not included in the original notice of allegations, each party will receive an updated written notice with the additional allegations.

H. GRIEVANCE PROCESS: INVESTIGATION

1. Equitable Opportunities. During the formal resolution proceedings, both the Complainant and the Respondent are provided equitable opportunities, including the opportunity to participate in the investigation; to review and present information and evidence; to be accompanied by an advisor of their choice to any meeting and proceeding; and to timely notice of meetings at which their presence will be requested or required.

2. Request for Disability Accommodations. A party may contact the Title IX Coordinator to request an accommodation for a disability to participate in the grievance process. A request for an accommodation will be reviewed by the appropriate University office that handles accommodation requests and evaluated pursuant to the applicable office’s reasonable accommodation procedures. Generally, a party should make a request promptly and in advance of when the accommodation is needed to allow a reasonable amount of time to review the request. However, a response to an immediate need for accommodation will be considered to the fullest extent possible.

3. Investigator. A University Investigator will conduct a prompt, thorough, fair and impartial investigation. The Investigator will receive annual training on: (1) issues of relevance; (2) the definitions in the Policy of Title IX Sexual Harassment; (3) the scope of the University’s education program or activity; (4) how to conduct an investigation; and (5) how to serve
impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The Investigator will be impartial and free from conflict of interest or actual bias for or against the Complainant or the Respondent or Complainants or Respondents generally.

4. **Conflict of Interest Challenge.** The Complainant and the Respondent may challenge the Investigator on the grounds of a conflict of interest or bias for or against Complainants or Respondents generally, or an individual Complainant or Respondent. This challenge must be raised, in writing, providing the specific grounds of the alleged conflict of interest or bias to the Title IX Coordinator or designee within forty-eight (48) hours of receipt of the notice of allegations. The Title IX Coordinator or designee, at their sole discretion, may disqualify the Investigator.

5. **Advisors.** The Complainant and the Respondent may be accompanied by an advisor of their choice during any meeting or proceeding related to the Formal Complaint. An advisor of choice is not limited to American University students, faculty, or staff, and may be any individual chosen by the party, including, but not limited to, a friend, mentor, family member, and/or attorney. The role of an advisor is limited to consultation. Other than at a live hearing for the sole purpose of conducting any cross-examination (see Section IV(I)(18) of this Policy), an advisor may not speak on behalf of a party or otherwise participate in, or in any manner delay, disrupt or interfere with meetings and/or proceedings. The University will not unduly delay the scheduling of meetings or proceedings based on an advisor's unavailability. An advisor may be asked to meet with the Title IX Coordinator or designee, or another University administrator, in advance of any proceedings to understand the expectations of the role, privacy considerations, and appropriate decorum.

6. **AU Community Cooperation.** The University expects all members of the AU Community to cooperate fully with the University’s grievance process for resolving a Formal Complaint. It is understood that there may be circumstances in which Complainants or Respondents wish to limit their participation, and the University will respect the choice of Complainants and Respondents as to how to engage in proceedings under this Policy. The University may, however, move forward with an investigation and disciplinary action without the participation of a party or parties.

7. **Gathering Evidence.** The Investigator will have the burden of proof, and the burden of gathering evidence sufficient to reach a determination of regarding responsibility. The Investigator will review all information gathered or provided by the parties and will determine the appropriateness, relevance and probative value of the information developed or received during the investigation.

   a. **Medical Records.** The Investigator cannot access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the treatment of the party, unless the Investigator obtains that party's voluntary, written consent to do so for the grievance process.
b. **Legally Recognized Privileged Records.** The Investigator cannot require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived that privilege, in writing, for the grievance process.

8. **Equal Opportunity to Present Evidence.** During the investigation, the parties will be given equal opportunities to be heard, to present relevant inculpatory and exculpatory evidence, and to identify relevant fact and expert witnesses. The Complainant and the Respondent will not be restricted from discussing the allegations under investigation or to gather and present relevant evidence. The parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution, and are encouraged to preserve relevant evidence. In the event that a party declines to voluntarily provide material information, the University's ability to conduct a prompt, thorough and equitable investigation may be impacted.

9. **Notice of Participation.** The Investigator will notify and seek to meet separately with the Complainant, the Respondent, and any third-party witnesses, and will gather relevant evidence and information. Prior to meeting with the Respondent and/or the Complainant, the Investigator will provide each party with written notice of the date, time, location, participants, and purpose of any meeting or investigative interview, with sufficient time for the party to prepare to participate.

10. **Review of Preliminary Investigative Report and Evidence.** Prior to the completion the final investigative report, the Complainant and the Respondent will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a party or other source. Specifically, the Investigator will send to each party and the party’s advisor, if any, the evidence in either an electronic format or a hard copy as determined by the Investigator, and the parties will have ten (10) calendar days to submit a written response, which the investigator will consider prior to the completion of the investigative report. Specifically, each party will have ten (10) calendar days to: (1) provide written comment or feedback; (2) submit additional information; (3) identify additional witnesses; and/or (4) request the collection of other information by the Investigator. The Investigator will determine the appropriateness of additional investigative steps and the relevance of additional information. If either party provides a written response to the Investigator, or makes a request for additional investigation, that written response and any additional information gathered by the Investigator will be shared with the other party, and incorporated as appropriate into the final investigative report. Any information gathered through additional investigation steps will be shared with both parties, and, as appropriate, each party will have the opportunity for further response. Each party will have three (3) calendar days to review any additional substantive information. The Investigator will make all evidence subject to the
parties’ inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

11. **Final Investigative Report.** Unless there are significant additional investigative steps requested by the parties or identified by the Investigator, normally within five (5) calendar days after receipt and consideration of additional comments, questions, and/or information from the parties, the Investigator will prepare a final investigative report that fairly summarizes the relevant evidence. At least ten (10) calendar days prior to a hearing, the Investigator will send the final investigative report to each party and each party’s advisor, if any, for their review and written response. Both parties will receive simultaneous written notification of the availability of the final investigative report.

12. **Estimated Timeline for Investigation.** The Investigator will provide periodic updates to the parties about the status of the investigation, with a goal to complete the investigation within approximately 69 calendar days after the receipt of the Formal Complaint.

### I. GRIEVANCE PROCESS: LIVE HEARING

1. **Facilitation of the Hearing.** The Investigator will submit a copy of the investigative report to the Title IX Coordinator or designee to facilitate the coordination of a Hearing Panel to conduct a live hearing to make a determination regarding responsibility. The live hearing will ordinarily be scheduled within ten (10) calendar days of providing the final investigative report to the parties.

2. **Advisors.** Both parties must be accompanied by an advisor at the hearing. If one or both of the parties do not have an advisor for the hearing, the University will provide an advisor for that party. Each party’s advisor must conduct any cross-examination of the other party and any witnesses as described in Section IV(I)(18) of this Policy. Apart from conducting cross-examination, an advisor’s participation is limited to consultation as described in Section IV (H)(5) of this Policy. If a party does not have an advisor present at the live hearing, the University will provide, without fee or charge to that party, an advisor to conduct cross-examination on behalf of that party.

3. **Access to Evidence.** The Complainant and the Respondent will be given equal opportunities to reasonably access the final investigative report and the evidence prior to and during the hearing.

4. **Participation of the Parties and Witnesses.** A party or witness who elects to participate in the process is expected, although not compelled, to participate in all aspects of the process (e.g., a witness who chooses to participate in the investigation is expected to make themselves available for a hearing if requested to do so). If a party or witness elects to not participate in the live hearing, or participates in the hearing, but refuses to answer questions posed by the other
party through their advisor, the Hearing Panel will not rely on any statement of the non-participating party or witness in reaching a determination regarding responsibility. The Hearing Panel will never draw any inferences based solely on a party's or witness's absence or refusal to answer questions.

a) “Statements” for purposes of the hearing means factual assertions made by a party or witness. Statements might include factual assertions made during an interview or conversation, written by the individual making the assertions (including those found in a Formal Complaint), and memorialized in the writing of another (e.g. in an investigative report, police report, or medical record). Where evidence involves intertwined statements of both parties (e.g. a text message exchange or an email thread) and one party refuses to participate in the hearing or submit to questioning about the evidence while the other does participate and answer questions, the statements of only the participating party may be relied on by the Hearing Officer.

If a party does not appear for the hearing, their advisor may still appear for the purpose of asking questions of the other party and witnesses. If a non-participating party’s selected advisor also does not appear for the hearing, the University will appoint an advisor to participate in the hearing for the purpose of asking questions of the other party on behalf of the non-participating party.

5. **Hearing Panel.** The Title IX Coordinator or designee will select a Hearing Panel comprised of three (3) faculty and staff members. The Hearing Panel must be impartial and free from bias or conflict of interest. If a member of the Hearing Panel has a concern that they cannot conduct a fair or unbiased review, they may report those concerns directly to the Title IX Coordinator or designee and a different Hearing Panelist will be assigned. The members of the Hearing Panel will receive annual training regarding the University’s policies and procedures; the handling of Title IX Sexual Harassment cases; how to conduct a hearing; issues of relevance, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant; how to serve impartially by, among other things, avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and other relevant issues. The Hearing Panel members will also be trained on any technology that might be used during a hearing.

6. **Hearing Panel Chair.** The Hearing Panel will select one member to be to the Hearing Panel Chair. The Hearing Panel Chair will exercise control over the proceedings to avoid needless consumption of time, and to achieve orderly completion of the hearing. Any person, including either party or the party’s advisors, who disrupts a hearing may be excluded by the Hearing Panel Chair for cause. The Hearing Panel Chair is responsible for final decisions on all procedural issues, to exclude questions due to relevancy, and to ensure a fair and expedient administration of the hearing.

7. **Conflict of Interest Challenge.** The Complainant and the Respondent will be informed of the identities of the members of the Hearing Panel at least forty-eight (48) hours before the hearing.
The Complainant and the Respondent may challenge a member of the Hearing Panel on the grounds of conflicts of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. This challenge must be raised, in writing, providing the specific grounds of the alleged conflict of interest or bias to the Title IX Coordinator or designee. The Title IX Coordinator or designee will assess the challenge and determine, in their sole discretion, whether a different Hearing Panel member should be assigned.

8. **Notice of Hearing.** The Title IX Coordinator or designee will provide both parties at least ten (10) calendar days advance written notice of the hearing for the parties to prepare to participate. The written notice will provide the date, time, location, participants, and purpose of the hearing.

9. **Closed Hearing.** All hearings are closed to the public.

10. **Hearing Recordings.** Except as described in this Section, all recordings of the hearing are prohibited. Any cameras and any recording device, including cellphone, are prohibited. However, the University will audio record the hearing for the purpose of review and appeal. The University does not provide copies of the hearing recording. The Office of Equity and Title IX will make an audio recording of the hearing to be made available to the parties for review.

11. **Standard of Evidence.** Determinations of responsibility with respect to the allegations in the Formal Complaint against the Respondent must be established by a Preponderance of the Evidence.

12. **Hearing Format.** The hearing will be live, with all questioning conducted in real time. The University provides, by request, modifications to the hearing to mitigate harm through contact by the parties. This means that the parties may be located in separate rooms (or at separate locations) with technology enabling the Hearing Panel and the parties to simultaneously see and hear the party or witness answering questions. A hearing may be conducted entirely virtually through the use of remote technology so long as the parties and Hearing Panel are able to hear and see one another in real time.

13. **Hearing Procedure.** The Hearing Panel Chair has general authority and wide discretion over the conduct of the hearing (e.g., they may set time frames for witness testimony and may limit opening/closing statements or their length, etc.). Although the Hearing Panel Chair has discretion to modify it, the general course of procedure for a hearing is as follows:

- Questioning of the Complainant by the Hearing Officer;
- Cross-examination of the Complainant by the Respondent’s advisor;
- Questioning of the Respondent by the Hearing Officer;
- Cross-examination of the Respondent by the Complainant’s advisor;
- Hearing Officer questioning of other material witnesses (if applicable);
- Cross-examination of other material witnesses by the parties’ advisors;
- Closing comments from the Complainant; and,
- Closing comments from the Respondent.

14. **No Formal Rules of Evidence.** Formal rules of evidence will not be applicable in the hearing. The Hearing Panel Chair may exclude evidence that is not relevant. The Hearing Panel Chair
may, at its discretion, exclude witnesses or any witness testimony that the Hearing Panel considers irrelevant or duplicative.

15. **General Relevancy.** Only relevant cross-examination and other questions may be asked of a party or witness. Before the Complainant, the Respondent, or any witness answers a cross-examination or other question, the Hearing Panel Chair must determine whether the question is relevant, and explain any decision to exclude a question as not relevant.

16. **Optional Submission of Questions.** The parties have the option of providing the Hearing Panel Chair a proposed list of questions to be asked of the other party and witnesses. Providing an advance list of questions allows the Hearing Panel Chair to evaluate relevancy before the hearing which in turn will facilitate a smooth functioning of the hearing.

17. **Questions Related to Sexual Predisposition or Prior Sexual Behavior.** Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

18. **Advisor Cross-Examination.** During the hearing, the Hearing Panel must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those questions challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party’s advisor and never by a party personally.

19. **Determination of Responsibility.** Following the hearing, the Hearing Panel will consider all of the evidence and make a determination, by a Preponderance of the Evidence, whether the Respondent has violated the Policy.

20. **Written Determination.** The Hearing Panel will issue a written determination regarding responsibility. The written determination will include:

   a. Identification of the allegations potentially constituting Title IX Sexual Harassment;

   b. A description of the procedural steps taken from the receipt of the Formal Complaint of Title IX Sexual Harassment through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

   c. Findings of fact support the determination;

   d. Conclusions regarding the application of Title IX Sexual Harassment Policy to the facts;

   e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
f. Information on the University’s sanctioning process if there is a finding of responsibility; and

g. The University’s procedures and permissible bases for the Complainant and Respondent to appeal.

21. Simultaneous Notice. The Hearing Panel will normally provide the written determination to the parties simultaneously within five (5) calendar days after the conclusion of the hearing.

22. Appeal Option. If the Hearing Panel finds that there is insufficient evidence, by a Preponderance of the Evidence, to support a finding of responsibility of all the allegations, the findings may be appealed pursuant to Section IV (K) of this Policy.

23. Sanctions Referral. If the Hearing Panel finds the Respondent responsible, by a Preponderance of the Evidence, for one or more of the allegations, the case will be referred to the University’s sanctioning process as described in Section IV (J) of this Policy for appropriate remedies and sanctions. Remedies provided to the Complainant are designed to restore or preserve equal access to the University’s education program or activity, and sanctions imposed on the Respondent may be disciplinary or punitive in nature.

24. Estimated Timeline for Live Hearing and Written Determination. The University’s goal is to complete the live hearing and send the parties a written determination of responsibility within approximately 13 calendar days after the parties received the final investigative report.

J. GRIEVANCE PROCESS: SANCTIONS

1. Facilitation of the Sanctions. The Hearing Panel will submit a copy of the written determination to the Title IX Coordinator or designee to facilitate a Sanctioning Panel. The Title IX Coordinator or designee will decide which Sanctioning Panel and appeal process applies in cases where the Respondent is both a student and employee or is both a faculty member and staff member.

2. Sanctioning Panel. The Title IX Coordinator or designee will select a Sanctioning Panel comprised of three (3) members. The composition of the Sanctioning Panel will depend on the status of the Respondent. If the Respondent is a student, then the Sanctioning Panel will be comprised of will be comprised of three (3) members of the Student Conduct Council (one (1) student and two (2) faculty/staff members). If the Respondent is a faculty member, then the Sanctioning Panel will be comprised of three (3) members of the Faculty Hearing Committee. If the Respondent is a staff member or related third party, then the Sanctioning Panel will be comprised of three (3) members of the Staff Personnel Review Board. The Sanctioning Panel must be impartial and free from bias or conflict of interest. If a member of the Sanctioning Panel has a concern that they cannot conduct a fair or unbiased review, they may report those
concerns directly to the Title IX Coordinator or designee and a different Sanctioning Panelist will be assigned.

3. **Notice of Sanctioning Panel’s Deliberation Date.** The Title IX Coordinator or designee will provide both parties at least five (5) calendar days advance notice of the Sanctioning Panel’s deliberation date.

4. **Conflict of Interest Challenge.** The Complainant and the Respondent will be informed of the identities of the members of the Sanctioning Panel at least forty-eight (48) hours before the hearing. The Complainant and the Respondent may challenge a member(s) of the Sanctioning Panel on the grounds of conflict of interest or bias for or against complainants or respondents generally, or an individual Complainant or Respondent. The Title IX Coordinator or designee will assess the challenge and determine, in their sole discretion, whether a different Sanctioning Panel member should be assigned.

5. **Sanctioning Panel Recording.** The University will make audio recordings of the Sanctioning Panels, not including the Sanctioning Panel’s deliberations, for the purpose of review and appeals. The University does not provide copies of recordings from Sanctioning Panels. The parties may request to listen to the recording, following the proceeding, in the Office of Equity and Title IX.

6. **Sanctioning Panel’s Review.** The Sanctioning Panel will review the Hearing Panel’s written determination letter and determine the appropriate sanction(s). The Complainant may submit a written statement to the Sanctioning Panel, describing the impact of the Title IX Sexual Harassment on the Complainant, and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanction(s) to be imposed.

7. **Submitted Statements.** The Complainant and the Respondent may provide their statements orally or they may be submitted into the record for consideration by the Sanctioning Panel. Should both parties attend the Sanctioning Panel, each party will provide their statements separately to the Sanctioning Panel. The Sanctioning Panel may ask questions of both parties in order to determine information relevant to a sanction recommendation.

8. **Sanctioning Panel’s Deliberation.** The Sanctioning Panel will deliberate on appropriate sanctions. The Complainant, the Respondent, and advisors are excluded from the Sanctioning Panel’s deliberations. The sanctions determined by the Sanctioning Panel are recommendations to the appropriate university administrator. If the Respondent is a student, then the Dean of Students or designee will render a final decision regarding sanctions. If the Respondent is a faculty member, then the Deputy Provost or designee will render a final decision on sanctions. If the Respondent is a staff or related third party, then the Assistant Vice President of Human Resources or designee will render the final decision on sanctions. The recommendation of sanction(s) to the appropriate University administrator will be made by majority vote of the Sanctioning Panel.

In determining the appropriate sanction(s) and/or remedies, the following factors may be considered:
• the nature of the conduct at issue;
• the impact of the conduct on the Complainant;
• the impact or implications of the conduct on the University community;
• prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere, and any criminal convictions, if such information is available and known;
• any expression of remorse or acceptance of responsibility by a Respondent;
• maintenance of a safe and respectful environment conducive to learning;
• protection of the university community;
• the necessity of any specific action in order to eliminate the Title IX Sexual Harassment, prevent its recurrence and remedy its effects on the Complainant or other University community members; and,
• any mitigating, aggravating or compelling circumstances in order to reach a just and appropriate resolution in each case.

The Sanctioning Panel may also consider restorative outcomes that, taking into account the safety of the AU Community as a whole, allow a Respondent to develop insight into the causes of the prohibited conduct, learn about the impact of the behavior on the Complainant and the community, and identify how to prevent or change the behavior. Sanctions may be issued individually, or a combination of sanctions may be imposed.

9. **Sanction Outcome Letter.** The appropriate University administrator or designee will normally provide both parties, simultaneously and in writing, a sanction outcome letter within five (5) calendar days after the conclusion of the Sanctioning Panel’s deliberation. The sanction outcome letter will include:

a.  A copy of the written determination letter; and

b.  Disciplinary sanctions imposed on the Respondent, and

c.  Whether remedies designed to restore or preserve equal access to the University’s education program or activity will be provided to the Complainant; and

d.  Information on the University appeal process.

10. **Range of Sanctions.** If the Respondent is a student, then the range of sanctions may include, but is not limited to, sanctions contained in Section XVII of the Student Conduct Code. Student sanctions may include, but are not limited to: censure, educational actions, remedial, disciplinary probation, removal from University housing, suspension, or dismissal. If the Respondent is a faculty member, then the range of sanctions may include, but is not limited to, sanctions contained in Section 22 of the Faculty Manual. Faculty sanctions may include, but are not limited to: minor sanctions, which include any adverse employment action short of suspension, such as a reprimand, or major sanctions, which include suspension or dismissal from
employment. If the Respondent is a staff member, then the range of sanctions may include, but is not limited to, sanctions contained in Section 7 of the Staff Manual. Staff sanctions may include, but are not limited to: a warning, reprimand, temporary suspension without pay, or termination from employment. In cases where the Respondent is both a student and employee or is both a faculty member and staff member, then the range of sanctions can be a combination of sanctions based on the Respondent’s multiple statuses.

11. **Estimated Timeline for Written Sanction Outcome.** The University’s goal is to complete the sanction process within approximately 12 calendar days after the written determination of responsibility is sent to the parties.

K. **GRIEVANCE PROCESS: APPEALS**

1. **Appeal Option.** The dismissal of a Formal Complaint or an allegation contained therein; a determination of responsibility; and/or the sanction(s) imposed may be appealed by either the Complainant or the Respondent in keeping with the procedures in this Section of the Policy. The dismissal of a Formal Complaint, determination regarding responsibility and/or imposition of sanctions will be deferred while an appeal is pending.

2. **Written Appeal.** The Complainant and the Respondent may appeal the dismissal, determination of responsibility, and/or the sanctions. Appeals must be submitted, in writing, to the appropriate university administrator, as defined in Section IV (K)(5), within seven (7) calendar days after the notice of the case outcome.

3. **Other Party’s Opportunity to Respond to Appeal.** Should an appeal be submitted by the Complainant or the Respondent, the other party shall be notified, in writing, when that appeal is filed and given an opportunity to respond within seven (7) calendar days of notification that an appeal has been submitted.

4. **Conflict of interest Challenge.** The Complainant and the Respondent may challenge the participation of the appropriate university administrator on the grounds of conflict of interest or bias for or against complainants or respondents generally, or an individual Complainant or Respondent. This challenge must be raised, in writing, providing the specific grounds of the alleged conflict of interest or bias to the Title IX Coordinator or designee within forty-eight (48) hours after the notice of the case outcome. The Title IX Coordinator or designee may disqualify, in their sole discretion, and replace the appropriate university administrator.

5. **Appeal Review.** Appeals will be reviewed by the appropriate university administrator. If the Respondent is a student, then the Vice President of Campus Life or designee will review the appeal. If the Respondent is a faculty member, then the Provost or designee will review the appeal. If the Respondent is a staff or related third party, then the Vice President of People and External Affairs or designee will review the appeal.
6. **Grounds for Appeal.** The dismissal of an allegation or the Formal Complaint; the determination of responsibility; and/or the sanction(s) imposed may be appealed on the following limited bases:

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

   b. New evidence that was not reasonably available at the time the determination regarding the responsibility or dismissal was made, that could affect the outcome of the matter;

   c. The Title IX Coordinator, Investigator, or decision-makers had a conflict of interest or bias for or against complaints or respondents generally, or the individual Complainant or Respondent that affected the outcome of the matter; or

   d. Insufficient/excessive sanctions.

7. **Appeal Decision.** Appeals will be decided based on a review of the underlying record of the investigation and hearing, the appealing party’s written appeal statement, any response to that statement by the other party. All written materials considered by the appropriate university administrator will be subject to inspection by the appealing party/parties. The appropriate university administrator or designee may affirm or modify the findings and sanctions or may remand the case for further consideration. Decisions rendered by the appropriate university administrator or designee are final.

8. **Written Appeal Outcome.** The appropriate university administrator or designee will normally provide both parties, simultaneously and in writing, an appeal outcome letter, describing the result of the appeal and the rationale for the result within five (5) calendar days after the other party’s opportunity to respond to the appeal has expired or the other party provides a written response to the appeal, whichever event occurs first.

9. **Estimated Timeline for Appeal.** The University’s goal is to complete the appeal within approximately 21 calendar days after the receipt of the written appeal.

   **L. TRAINING**

1. **Training in General.** The Title IX Coordinator, Investigators, Hearing Panel members, Sanctioning Panels members, university administrators rendering decisions on sanctions and appeal, and any person who facilitates an informal resolution process will receive training on Title IX Sexual Harassment, the scope of the University’s education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
2. **Training on Technology.** Hearing Panel members will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant.

3. **Training on Investigation Reports.** Investigators will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

4. **Training Materials.** Materials used to train Title IX Coordinators, Investigators, Hearing Panel members, Sanctioning Panels members, university administrators rendering decisions on sanctions and appeal, and any person who facilitates an informal resolution process will not rely on sex stereotypes and will promote impartial investigation and adjudications of Formal Complaints. The University will make these training materials publicly available on its website.

**M. RECORDS**

1. **Record Maintenance.** The following records will be maintained by the Office of Equity and Title IX for a period seven (7) years:

   a. Title IX Sexual Harassment investigation records including any determination regarding responsibility, any audio recordings of hearings, any disciplinary sanctions imposed on the Respondent, and any remedies provided to restore or preserve equal access to the University’s education program or activity;

   b. Any appeal and result from a Title IX Sexual Harassment investigation;

   c. Any informal resolution and the result from a Title IX Sexual Harassment investigation;

   d. All training material as described in Section IV (L) of this Policy; and

   e. Any actions, including any Supportive Measures, taken in response to a Formal Complaint.

2. **Personnel or Disciplinary Records.** Formal Complaints against faculty, staff, or students that result in a personnel or disciplinary action will also be a part of the Respondent's personnel or disciplinary record.

**N. FALSE OR FRIVOLOUS CHARGES**

The University encourages good faith reporting of violations of this Policy. This Policy shall not be used to bring false or frivolous charges against students, faculty, or staff. Those bringing such charges may be subject to disciplinary action. Failure to prove a complaint, does not itself constitute a false or frivolous complaint.
O. CONFIDENTIALITY & THE UNIVERSITY’S OBLIGATION TO RESPOND TO REPORTS

1. Confidentiality. The University will maintain the confidentiality of information shared throughout the grievance process. However, disclosures may be required for the purpose of fact-finding or efforts to resolve the Formal Complaint. In the limited instances where disclosures must be made by the University, disclosures will be limited to those persons necessary to proceed in the fact-finding process or to otherwise address the grievance. All persons involved in the grievance will be advised of the importance of confidentiality throughout the process. While the University is committed to respecting the confidentiality of all parties involved in the process, it cannot guarantee complete confidentiality. Examples of situations in which confidentiality cannot be maintained include:

   • When the University is required by law to disclose information (such as in response to a subpoena or court order).
   • When disclosure of information is determined by the Title IX Coordinator or designee to be necessary for conducting an effective investigation of the report of Title IX Sexual Harassment.
   • When confidentiality concerns are outweighed by the University’s interest in protecting the safety or rights of others.
   • When a Formal Complaint is filed.

2. Confidentiality and University’s Limitations in Responding. In some cases, Complainants may request that their names be kept confidential and that the University take no action on their report of Title IX Sexual Harassment (“confidential reporting”). The Title IX Coordinator or designee will evaluate each request and advise the Complainant that “confidential reporting” will limit the University’s ability to respond fully to the matter, including pursuing disciplinary action against the Respondent. Nevertheless, in most instances, the University will honor such confidentiality requests unless to do so would impede its ability to provide a safe and nondiscriminatory environment for the AU Community.

V. EFFECTIVE DATE AND REVISIONS

This Policy is effective August 14, 2020.
APPENDIX C:

American University Interim Suspension Policy
University Policy: Interim Suspension

Policy Category: Students

Subject: Interim suspension policy for students

Office(s) Responsible for Review of this Policy: Office of Campus Life

Related University Policies: Student Conduct Code; Threat Assessment Policy, Washington College of Law Honor Code

I. SCOPE

This policy applies to all American University students including undergraduate, graduate and Washington College of Law (WCL).

II. POLICY STATEMENT

American University is committed to providing a safe and secure environment for all AU Community Members. This Policy establishes the procedures on placing a student on interim suspension at the university.

III. DEFINITIONS

IV. POLICY

A. General

1. The dean of students or their designee may suspend a student from the university and/or university housing or deny access to university privileges for an interim period pending disciplinary charges or criminal proceedings or medical evaluation regarding behavior relevant to such proceedings.

2. The dean of students or their designee, at their discretion, may impose an interim suspension when the continued presence of the student at the university (a) poses a substantial and imminent threat to the safety and well-being of members of the university community; or (b) poses a threat to the stability and continuation of normal university functions.

3. The dean of students or their designee may consult with other university administrators or external professionals as needed in deciding whether to impose an interim suspension.

4. When placed on an interim suspension, a student may not participate in university activities including but not limited to: attending or participating in academic classes
or programs, residing in university owned or operated facilities, being present on university premises. Any modifications to the interim suspension will be explicitly communicated by the dean of students or their designee. Direct communication between a University employee and student, beyond staff in the Office of the Dean of Students and Student Conduct and Conflict Resolution Services must be approved by the dean of students or designee.

5. During a period of an interim suspension, the student’s faculty will be notified, and the student will be excused from classes, however, they are responsible for making up the work once the interim suspension has been lifted. University regulations will continue to apply during an interim suspension.

B. Process

1. The dean of students or their designee will provide written notification to a student who is placed on interim suspension. The written notification will include information regarding the alleged conduct and the rationale for the interim suspension. The interim suspension will be effective immediately.

2. A student who is placed on interim suspension will have the opportunity to appeal to the Vice President of Campus Life (VPCL) or their designee within five (5) business days from the date of the interim suspension notification. The appeal must be submitted in writing and include any documentation or information that supports the student’s grounds for the appeal. The grounds for appealing an interim suspension are:
   a. The reliability of the information concerning the student’s conduct, including the matter of identity;
   b. The conduct and surrounding circumstances reasonably indicate that the continued presence of the student on university premises does not pose a substantial and imminent threat to the university community or the university’s orderly operations.

3. The VPCL or their designee will review the appeal as soon as administratively possible. The VPCL or their designee will provide the student with a written notice of the outcome of the appeal. The interim suspension will remain in effect while any review is pending. There will be no further appeals to the decision rendered upon review.

4. An interim suspension is not considered a permanent record as identified in Section XXI. Disciplinary Records of the Student Conduct Code. As such, this will not be noted on an academic transcript.

5. The dean of students or their designee has discretion to impose, lift, reassess, and modify an interim suspension as circumstances may warrant at any point during the interim suspension period. A student placed on interim suspension may be required to complete an evaluation by an external professional to determine whether or not the student poses a continued threat to the campus community as described by this Policy. Failure to comply with the directive to complete this evaluation may result in the interim suspension not being lifted and conduct charges. If a student does not comply with directives provided by the evaluator, additional conduct charges may apply. The Dean of Students or designee will notify the student when the interim
suspension is lifted. If the interim suspension is lifted, the dean of students or their
designee may place other interim restrictions (e.g., removal from university housing,
limited access to campus) until the resolution of any pending disciplinary charges or
criminal proceedings or medical evaluation regarding behavior relevant to such
proceedings.

6. A student placed on interim suspension does not replace the student disciplinary
process, which shall proceed in accordance with the Student Conduct Code to
address the alleged prohibited conduct.

I. EFFECTIVE DATE AND REVISIONS:

This Policy is effective August 11, 2020.

This Policy was reviewed or revised August 11, 2020.