Pennsylvania College of Technology

Procedure Statement

Title: Sexual Misconduct/Sexual Harassment

Number: PR 7.30

Approved by:
Presidential Action

Approved Date: 09/2017
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Persons/Departments Affected:
All Penn College Students and Employees

Responsible Department:
Student Affairs & People & Culture

Definitions:

Advisor means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual misconduct/sexual harassment based on a protected class; or retaliation for engaging in a protected activity.

Complaint (formal) means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging sexual misconduct/sexual harassment for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.

Confidential Resource means an employee who is not a Mandated Reporter of notice of sexual misconduct/sexual harassment (irrespective of Clery Act Campus Security Authority status).

Day means a business day when the College is in normal operation.

Directly Related Evidence is evidence connected to the complaint but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.

Education program or activity means locations, events, or circumstances where Penn College exercises substantial control over both the Respondent and the context in which the sexual misconduct/sexual harassment occurs and also includes any

building owned or controlled by a student organization that is officially recognized by the College.

Final Determination: A conclusion by preponderance of the evident (more likely than not) that the alleged conduct did or did not violate policy.

Finding: A conclusion by preponderance of the evident (more likely than not) that the conduct did or did not occur as alleged (as in a "finding of fact").

Formal Grievance Process means "Process A," a method of formal resolution designated by the College to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).

Formal Resolution Process means "Process B," a method of investigating a complaint of an alleged violation of the College's Sexual Misconduct/Sexual Harassment Policy and/or Procedure.

Investigator means the person or persons charged by Penn College with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

Mandatory Reporter means an employee of the College who is obligated by policy to share knowledge, notice, and/or reports of sexual misconduct/sexual harassment with the Title IX Coordinator and/or their supervisor.

Notice means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

Official with Authority (OWA) means an employee of the College explicitly vested with the responsibility to implement corrective measures for sexual misconduct/sexual harassment on behalf of the College.

Parties include the Complainant(s) and Respondent(s), collectively.

Policy means the Sexual Misconduct/Sexual Harassment Policy.

Procedure means the Sexual Misconduct/Sexual Harassment Procedure.

Process A means the Formal Grievance Process detailed in this Procedure and defined above.

Process B means the procedures detailed in this Procedure that apply only when Process A does not, as determined by the Title IX Coordinator.

Recipient means a postsecondary education program that is a recipient of federal funding.

Relevant Evidence is evidence that tends to prove or disprove an issue in the complaint.

Remedies are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the College's educational program.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct/sexual harassment; or retaliation for engaging in a protected activity.

Resolution means the result of an informal or Formal Grievance Process.

Sanction means a consequence imposed by the College on a Respondent who is found to have violated this policy.

Sexual Harassment is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.

Sexual Misconduct Hearing Panel refers to those who have decision-making and sanctioning authority within the College's Formal Grievance process (Process A) and Formal Resolution Process (Process B).

Title IX Coordinator is at least one official designated by the College to ensure compliance with Title IX and the College's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

Title IX Team refers to the Title IX Coordinator, any deputy coordinators, investigators, advisors, any member of the Sexual Misconduct Review Panel, or Appeals Officer.

Risk Assessment refers to an individualized process, conducted by the Penn College Police, to determine if a Respondent poses an immediate threat to the physical health or safety of the Complainant, a Witness, or the College community in general arising from the allegation of sexual misconduct/sexual harassment.

Procedure:

I. "Process A" Overview

a. Penn College will act on any formal notice/complaint of violation of the Sexual Misconduct/Sexual Harassment Policy that is received by the Title IX Coordinator or any other Official with Authority by applying these

procedures, known as "Process A."

b. The procedures below apply **only** to qualifying allegations of sexual misconduct/sexual harassment as outlined in the Sexual Misconduct/Sexual Harassment Policy (including sexual assault, dating violence, domestic violence, and stalking) involving students, staff, administrators, or faculty members.
c. Process B can also apply to sexual misconduct/sexual harassment as outlined in the Sexual Misconduct/Sexual Harassment Policy (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.
d. The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Sexual Misconduct/Sexual Harassment Policy will be addressed through procedures described in the appropriate College Policy and Procedure.

II. Notice/Complaint

a. Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of this Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the College needs to take.
b. The Title IX Coordinator will initiate at least one of three responses:
    i. Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
    ii. An informal resolution (upon submission of a formal complaint); and/or
    iii. A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).
c. The College uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual misconduct/sexual harassment, their potential recurrence, or their effects.

III. Initial Assessment

a. Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:
    i. If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
        1. If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or

safety.

ii. If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.

iii. The Title IX Coordinator reaches out to the Complainant to offer supportive measures.

iv. The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.

v. The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.

1. If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements it accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
2. If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in informal resolution.
3. If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
    a. If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
        i. an incident, and/or
        ii. a pattern of alleged misconduct, and/or
        iii. a culture/climate issue, based on the nature of the complaint.
    b. If it does not, the Title IX Coordinator determines that Title IX does not apply (and will "dismiss" that aspect of the complaint, if any), assesses which policies may apply and refers the matter for resolution under Process B. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX, and does not limit the College's authority to address a complaint with an appropriate process and remedies.

vi. Risk Assessment

1. In many cases, the Title IX Coordinator may determine that a Risk assessment should be conducted in conjunction with the Penn College Police as part of the initial assessment. A risk assessment can aid in critical and/or required determinations, including:
    a. Emergency removal of a Respondent on the basis of

immediate threat to physical health/safety;
b. Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
c. Whether to put the investigation on the footing of incident and/or pattern and/or climate;
d. To help identify potential predatory conduct;
e. To help assess/identify grooming behaviors;
f. Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
g. Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
h. Whether a Clery Act Timely Warning/No Contact Order/Persona-non-grata is needed.

2. Risk assessment is the process of evaluating the liklihood of violence by an individual against another person or group following the issuance of a direct or conditional threat or any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.
3. Where a risk assessment is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.
4. A risk assessment is not an evaluation for an involuntary behavioral health hospitalization (e.g., "302" in PA), nor is it a psychological or mental health assessment. A risk assessment assesses the risk of actionable violence, often with a focus on targeted/predatory escalations.

IV. Dismissal (Mandatory and Discretionary)

a. The College must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:
   i. The conduct alleged in the formal complaint would not constitute sexual misconduct/sexual harassment as defined above, even if proved; and/or
   ii. The conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent; and/or
   iii. The conduct did not occur against a person in the United States; and/or
   iv. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the College. Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable.

b. The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:
    i. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
    ii. The Respondent is no longer enrolled in or employed by the College; or
    iii. Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
c. Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.
d. This dismissal decision is appealable by any party under the procedures for appeal below.

V. Counterclaims

a. The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, made for the purpose of retaliation, instead. Counterclaims made with retaliatory intent will not be permitted.
b. Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation; in which case a delay may occur.
c. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

VI. Right to an Advisor

a. The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.
    i. The parties are permitted one Advisor but can request additional Advisors through the Title IX Coordinator. If one party is allowed more than one Advisor, then the other party may also have the same number of Advisors.
    ii. Witnesses are not entitled to Advisors within the process, though they can be advised externally.
b. Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Sexual Misconduct Hearing Panel.

c. Who Can Serve as an Advisor
    i. The Advisor may be a friend, mentor, family member, attorney, advocate, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the College community.
    ii. The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the Title IX Team available from the College, the Advisor will be trained by the College and be familiar with the College's resolution process.
    iii. If the parties choose an Advisor from outside the Team of those identified by the College, the Advisor may not have been trained by the College and may not be familiar with College's policies and procedures.
    iv. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.
d. Advisor's Role in Meetings and Interviews
    i. The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.
    ii. The College cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the College is not obligated to provide an attorney.
e. Advisors in Hearings/College-Appointed Advisor
    i. Under U.S. Department of Education regulations under Title IX, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.
    ii. A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor does not conduct questioning, the College will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Sexual Misconduct Review Panel during the hearing.
f. Pre-Interview Meetings
    i. Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand

their role and College's policies and procedures.

g. Advisor Violations of College Policy
    i. All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address College officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Sexual Misconduct Review Panel except during a hearing proceeding, during cross-examination.
    ii. The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.
    iii. Any Advisor who oversteps their role as defined by this Procedure will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented as determined by the Title IX Coordinator. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

h. Sharing Information with the Advisor
    i. The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.
    ii. The College also provides a consent form that authorizes the College to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the College is able to share records with an Advisor.
    iii. If a party requests that all communication be made through their attorney Advisor, the College will not comply with that request.

i. Privacy of Records Shared with Advisor
    i. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to

abide by the College's privacy expectations.

j. Expectations of an Advisor
    i. The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings when planned but may change scheduled meetings and hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.
    ii. The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.
k. Expectations of the Parties with Respect to Advisors
    i. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).
    ii. The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

VII. Resolution Processes

a. Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with College policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, except for information the parties agree not to disclose related to Informal Resolution, discussed below. Penn College encourages parties to discuss any sharing of information with their Advisors before doing so.
    i. Informal Resolution can include three different approaches:
        1. When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.
        2. When the parties agree to resolve the matter through an Alternate Resolution mechanism as described below, including mediation, restorative practices, etc., usually before a formal investigation takes place.
        3. When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process.
    ii. To initiate Informal Resolution, a Complainant needs to submit a

formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

iii. It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

iv. Prior to implementing Informal Resolution, the College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the College.

v. The College will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

b. Alternate Resolution Mechanism

i. Alternate Resolution is an informal mechanism, including mediation or restorative practices, etc., by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of an Alternate Resolution mechanism.

ii. The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

1. The parties' amenability to Alternate Resolution;
2. Likelihood of potential resolution, taking into account any power dynamics between the parties;
3. The parties' motivation to participate;
4. Civility of the parties;
5. Results of a violence risk assessment/ongoing risk analysis;
6. Disciplinary history;
7. Whether an emergency removal is needed;
8. Skill of the Alternate Resolution facilitator with this type of allegation;
9. Complaint complexity;
10. Emotional investment/capability of the parties;
11. Rationality of the parties;
12. Goals of the parties;
13. Adequate resources to invest in Alternate Resolution (time, staff, etc.)

iii. The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

c.

d. Respondent Accepts Responsibility for Alleged Violations
    i. The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.
    ii. If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the College are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of College policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.
    iii. This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.
    iv. When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the sexual misconduct/sexual harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.
e. Negotiated Resolution
    i. The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the College. Negotiated Resolutions are not appealable.

VIII. Grievance Process Members

a. The Formal Grievance Process relies on a pool of administrators (the Title IX Team) to carry out the process. Members of the Title IX Team are identified on the College's Sexual Misconduct Webpages.
b. Title IX Team Member Roles
    i. Members of the Title IX Team are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:
        1. To provide appropriate intake of and initial guidance pertaining to complaints
        2. To act as an Advisor to the parties
        3. To serve in a facilitation role in Informal Resolution or Alternate Resolution if appropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices)
        4. To perform or assist with initial assessment
        5. To investigate complaints
        6. To serve as a hearing facilitator (process administrator, no

decision-making role)
7. To serve on or Chair the Sexual Misconduct Review Panel regarding the complaint
8. To serve as an Appeals Officer

ii. Title IX Team Member Appointment
1. The Title IX Coordinator, in consultation with the President, appoints the Title IX Team, which acts with independence and impartiality.
2. Although members of the Title IX Team are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the College can also designate permanent roles for individuals in the Title IX Team, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Title IX Team that make them best suited to particular roles.

iii. Title IX Team Member Training
1. The Title IX Team members receive annual training.
2. Specific training is also provided for Appeals Officers, Investigators, Advisors (who are College employees), and Sexual Misconduct Hearing Panel members and chairs. All Title IX Team members are required to attend these trainings annually. The materials used to train all members of the Title IX Team are publicly posted on the Sexual Misconduct website at www.pct.edu/sexualmisconduct.
3. Title IX Team Membership
   a. The Title IX Team includes members of the College staff including, but not limited to, representation from Student Affairs, Academic Affairs, Enrollment & Academic Operations, and People & Culture
   b. Title IX Team members are usually appointed to 3-year terms. Individuals who are interested in serving on the Title IX Team are encouraged to contact the Title IX Coordinator.

IX. Formal Grievance Process: Notice of Investigation and Allegations

a. The Title IX Coordinator will provide written notice of the investigation and allegations to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The notice of the investigation and allegations is also copied to the Complainant, who is to be given advance notice of when the notice of the investigation and allegations will be delivered to the Respondent.
b. The notice of the investigation and allegations will include:
   i. A meaningful summary of all of allegations,

ii. The identity of the involved parties (if known),
iii. The precise misconduct being alleged,
iv. The date and location of the alleged incident(s) (if known),
v. The specific policies implicated,
vi. A description of the applicable procedures,
vii. A statement of the potential sanctions/responsive actions that could result,
viii. A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
ix. A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
x. A statement about the College's policy on retaliation,
xi. Information about the privacy of the process,
xii. Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
xiii. A statement informing the parties that the College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
xiv. Detail on how the party may request disability accommodations during the interview process,
xv. A copy of or link to the College's *A Resource Guide for Survivors of Sexual Misconduct* brochure,
xvi. The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
xvii. An instruction to preserve any evidence that is directly related to the allegations.

c. Amendments and updates to the notice of the investigation and allegations may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.
d. Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official College records, or emailed to the parties' Penn College email accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

X. Resolution Timeline

a. The College will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

XI. Appointment of Investigators

a. Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Title IX Team members to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

XII. Ensuring Impartiality

a. Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), and Sexual Misconduct Hearing Panel members and chair, may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.
b. The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Title IX Team member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the President.
c. The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.
d. The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

XIII. Investigation Timeline

a. Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.
b. The College will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

XIV. Delays in the Investigation Process and Interactions with Law Enforcement

a. The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the

investigation, the need for language assistance, the absence of parties and/or witnesses, accommodations for disabilities or health conditions, and/or the College's academic schedule.

b. The College will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, Penn College will implement supportive measures as deemed appropriate.
c. College action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

XV. Steps in the Investigation Process

a. All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.
b. All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.
c. The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):
    i. Determine the identity and contact information of the Complainant
    ii. In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
    iii. Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
    iv. Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
    v. Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
    vi. Meet with the Complainant to finalize their interview/statement, if necessary
    vii. Prepare the initial Notice of Investigation and Allegation. The notice of the investigation and allegations may be amended with any additional or dismissed allegations
    viii. Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
    ix. Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and

meetings

x. Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
xi. When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
xii. Interview all available, relevant witnesses and conduct follow-up interviews as necessary
xiii. Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
xiv. Complete the investigation promptly and without unreasonable deviation from the intended timeline
xv. Provide regular status updates to the parties throughout the investigation
xvi. Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
xvii. Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
xviii. Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the College does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.
xix. The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
xx. The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
xxi. The Investigator(s) shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback
xxii. The Investigator(s) will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any

directly related evidence that was not included in the report

XVI. Role and Participation of Witnesses in the Investigation

a. Witnesses (as distinguished from the parties) who are employees of the College are expected to cooperate with and participate in the College's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.
b. Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determines that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

XVII. Recording of Interviews

a. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

XVIII. Evidentiary Considerations in the Investigation

a. The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, 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.

XIX. Referral for Hearing

a. Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.
b. The hearing cannot be less than ten (10) business days from the conclusion of the investigation, when the final investigation report is transmitted to the parties and the Chair, unless all parties and the Chair of the Sexual Misconduct Hearing Panel agree to an expedited timeline.
c. The Title IX Coordinator will select appropriate Title IX Team members for the Sexual Misconduct Hearing Panel depending on whether the Respondent is an employee or a student.

XX. Sexual Misconduct Hearing Panel Composition

a. The College will designate a three-member Panel from the Title IX Team, at the discretion of the Title IX Coordinator. Within the Panel, one of the three members will be appointed as Chair by the Title IX Coordinator.
b. The Panel members will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Title IX Team sit in throughout the hearing process if a substitute is needed for any reason.
c. Those who have served as Investigators will be witnesses in the hearing and therefore may not serve on the Panel. Those who are serving as Advisors for any party may not serve on the Panel in that matter.
d. The Title IX Coordinator may not serve on the Panel or Chair in the matter but may serve as a hearing facilitator if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair.

XXI. Evidentiary Considerations in the Hearing

a. Any evidence that the Chair determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, 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.
b. Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and is not shared until then.
c. The parties may each submit a written impact statement prior to the hearing for the consideration of the Chair at the sanction stage of the process when a determination of responsibility is reached.
d. After post-hearing deliberation, the Panel renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

XXII. Notice of Hearing

a. No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
b. The notice will contain:
    i. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.

ii. The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
iii. Any technology that will be used to facilitate the hearing.
iv. Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Panel and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
v. A list of all those who will attend the hearing, along with an invitation to object to Panel members on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
vi. Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
vii. A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Panel. For compelling reasons, the Chair may reschedule the hearing.
viii. Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the College will appoint one. Each party must have an Advisor present. There are no exceptions.
ix. A copy of all the materials provided to the Panel about the matter, unless they have been provided already.
x. An invitation to each party to submit to the Chair an impact statement pre-hearing that the Panel will review during any sanction determination.
xi. An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
xii. Whether parties cannot bring mobile phones/devices into the hearing.

c. Hearings for possible violations that occur near or after the end of an academic semester (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the College and remain within the 60-90 business day goal for resolution.
d. In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal).
e. A student facing charges under this Policy is not in good standing with the College.

XXIII. Alternative Hearing Participation Options

a. If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.
b. The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

XXIV. Pre-Hearing Preparation

a. The Chair after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.
b. Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.
c. The parties will be given a list of the names of the Panel at least five (5) business days in advance of the hearing. All objections to any Panel member must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than one day prior to the hearing. Panel members will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).
d. The Title IX Coordinator will give the Panel a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Panel member who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Panel member is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.
e. During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

XXV. Pre-Hearing Meetings

a. The Chair may convene a pre-hearing meeting(s) with the parties and their Advisors to invite them to submit the questions or topics they (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.
b. The Chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.
c. At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator or ask either or both to attend pre-hearing meetings.
d. The pre-hearing meeting(s) will not be recorded.

XXVI. Hearing Procedures

a. At the hearing, the Panel has the authority to hear and make determinations on all allegations of sexual misconduct/sexual harassment and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual misconduct/sexual harassment, even though those collateral allegations may not specifically fall within this Policy and Procedure.
b. Participants at the hearing will include the Panel, Chair, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.
c. The Chair will answer all questions about procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.
d. The Chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Sexual Misconduct Hearing Panel and the parties and the witnesses will then be excused.

XXVII. Joint Hearings

a. In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

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

XXVIII. The Order of the Hearing – Introductions and Explanation of Procedure

a. The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of Panel members on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the hearing facilitator will review and decide the challenge.
b. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by the hearing facilitator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.
c. The Chair then conducts the hearing according to the standard process.

XXIX. Investigator Presents the Final Investigation Report

a. The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Panel and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.
b. Neither the parties nor the Panel should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

XXX. Testimony and Questioning

a. Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Panel and then by the parties through their Advisors ("cross-examination").
b. All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider it (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

c. The Chair may invite explanations or arguments regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.
d. The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.
e. If the parties raise an issue of bias or conflict of interest of an Investigator or Panelist at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

XXXI. Refusal to Submit to Cross-Examination and Inferences

a. If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Panel may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Panel must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.
b. If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission.
c. The Panel may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.
d. If charges of policy violations other than sexual misconduct/sexual harassment are considered at the same hearing, the Sexual Misconduct Hearing Panel Chair may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.
e. If a party's Advisor of choice refuses to comply with the College's established rules of decorum for the hearing, the College may require the

party to use a different Advisor. If a College-provided Advisor refuses to comply with the rules of decorum, the College may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

XXXII. Recording Hearings

a. Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.
b. The Panel, the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

XXXIII. Deliberation, Decision-making, and Standard of Proof

a. The Panel will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.
b. When there is a finding of responsibility on one or more of the allegations, the Panel may then consider the previously submitted party impact statements in determining appropriate sanction(s).
c. The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Panel may, at their discretion, consider the statements, but they are not binding.
d. The Panel will review the statements and any pertinent conduct history provided by Student Affairs and will determine the appropriate sanction(s).
e. The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.
f. This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

XXXIV. Notice of Outcome

a. Using the written deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within seven (7) business days of receiving the Panel's deliberation statement.
b. The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of

the following methods: in person, mailed to the local or permanent address of the parties as indicated in official College records, or emailed to the parties' College e-mail account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

c. The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the College from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.
d. The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the College is permitted to share such information under state or federal law; any sanctions issued which the College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the College's educational or employment program or activity, to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).
e. The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

XXXV. Statement of the Rights of the Parties

a. Each party is provided the following rights under this process:
    i. The right to an equitable investigation and resolution of all credible allegations of prohibited sexual misconduct/sexual harassment made in good faith to College officials.
    ii. The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
    iii. The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
    iv. The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
    v. The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.

vi. The right to be treated with respect by College officials.
vii. The right to have College policies and procedures followed without material deviation.
viii. The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
ix. The right not to be discouraged by College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
x. The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by College authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
xi. The right to have allegations of violations of this Policy responded to promptly and with sensitivity by College Police and/or other College officials.
xii. The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
xiii. The right to a College-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
xiv. The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of <u>sexual misconduct/sexual harassment</u>, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
    1. Relocating an on-campus student's housing to a different on-campus location
    2. Assistance from College staff in completing the relocation
    3. Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
    4. Transportation accommodations
    5. Arranging to dissolve a housing contract and a pro-rated refund
    6. Exam, paper, and/or assignment rescheduling or adjustment
    7. Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
    8. Transferring class sections
    9. Temporary withdrawal/leave of absence (may be retroactive)
    10. Campus safety escorts
    11. Alternative course completion options.

xv. The right to have the College maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the College's ability to provide the supportive measures.
xvi. The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
xvii. The right to ask the Investigator(s) and Panel to identify and question relevant witnesses, including expert witnesses.
xviii. The right to provide the Investigator(s)/Panel with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
xix. The right not to have irrelevant prior sexual history or character admitted as evidence.
xx. The right to know the relevant and directly related evidence obtained and to respond to that evidence.
xxi. The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
xxii. The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
xxiii. The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
xxiv. The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
xxv. The right to regular updates on the status of the investigation and/or resolution.
xxvi. The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Sexual Misconduct Hearing Panel Members and Chair who have received relevant annual training.
xxvii. The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
xxviii. The right to preservation of privacy, to the extent possible and permitted by law.
xxix. The right to meetings, interviews, and/or hearings that are closed to the public.
xxx. The right to petition that any College representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.

xxxi. The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
xxxii. The right to have the College compel the participation of faculty and staff witnesses.
xxxiii. The right to the use of the appropriate standard of evidence, preponderance of the evidence; to make a finding after an objective evaluation of all relevant evidence.
xxxiv. The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
xxxv. The right to have an impact statement considered by the Panel following a determination of responsibility for any allegation, but prior to sanctioning.
xxxvi. The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
xxxvii. The right to be informed in writing of when a decision by the College is considered final and any changes to the sanction(s) that occur before the decision is finalized.
xxxviii. The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.
xxxix. The right to a fundamentally fair resolution as defined in these procedures.

XXXVI. Sanctions

a. Factors considered when determining a sanction/responsive action may include, but are not limited to:
    i. The nature, severity of, and circumstances surrounding the violation(s)
    ii. The Respondent's disciplinary history
    iii. Previous allegations or allegations involving similar conduct
    iv. The need for sanctions/responsive actions to bring an end to the sexual misconduct/sexual harassment
    v. The need for sanctions/responsive actions to prevent the future recurrence of sexual misconduct/sexual harassment
    vi. The need to remedy the effects of the sexual misconduct/sexual harassment on the Complainant and the community
    vii. The impact on the parties
    viii. Any other information deemed relevant by the Panel
b. The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

c. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.
d. Student Sanctions can include, but are not limited to:
    i. Warning - A notice, oral or written, that the student has violated a College policy.
    ii. Probation - A written reprimand for a violation of a specified policy. Probation is for a designated period of time and includes the probability of more severe sanctions if the student is found to be violating any College policy during the probationary period. Probation may include a loss of privileges.
    iii. Loss of Privileges - Denial of specific privileges or the ability to participate in specified College activities for a designated period of time.
    iv. Restitution - Repayment to the College or other party for damage caused by one's actions. This may take the form of service and/or monetary or material replacement.
    v. Discretionary Sanction - Service and/or research projects or other discretionary assignments.
    vi. Fines/Administrative Fees - A monetary charge which may be assessed as a punitive sanction or to assist with costs associated with an educational workshop or program.
    vii. Residence Hall Suspension - Separation of the student from the residence halls for a defined period of time, after which the student is eligible to return. Conditions for re-admission may be specified. While a student is suspended, they are prohibited from being in or around any residential complex and is excluded from all residence hall privileges and activities.
    viii. Residence Hall Expulsion - Permanent separation of the student from the residence halls. When a student is expelled, they are prohibited from being in or around any residential complex and is excluded from all residence hall privileges and activities.
    ix. Academic Sanctions – In matters of classroom behavioral issues, various academic sanctions can be imposed including, but not limited to, temporary or permanent removal from classes/labs, or removal from an academic program and/or academic school.
    x. College Suspension - The termination of student status and the separation of the student or student group or organization from the College for a defined period of time, after which the student, group or organization is eligible to return. Conditions for readmission may be specified. While a student is suspended, they are prohibited from being on College premises and excluded from all student courses, privileges, and activities.
    xi. College Expulsion - Permanent separation of the student or student group or organization from the College. When a student is expelled, they are prohibited from being on College premises and excluded from all student courses, privileges, and activities.

e. Student Organization Sanctions can include, but are not limited to:
    i. Loss of privileges.
    ii. Loss of funding opportunities.
    iii. Loss of recognized student organization status.
    iv. Other discretionary sanctions.
f. Employee Sanctions can include, but are not limited to:
    i. Verbal/Written Warning.
    ii. Performance Improvement Plans.
    iii. Loss of Supervisory Authority.
    iv. Demotion.
    v. Leave/Suspension with or without Pay.
    vi. Termination.

XXXVII. **Withdrawal or Resignation While Charges Pending**

a. Students:
    i. If a student has an allegation pending for violation of this Policy, the College may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.
    ii. Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the College, the resolution process ends, as the College no longer has disciplinary jurisdiction over the withdrawn student.
    iii. However, the College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged h sexual misconduct/sexual harassment. The student who withdraws or leaves while the process is pending may not return to the College. A hold will be placed on their ability to be readmitted. They will also be barred from College property and/or events.
    iv. If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to the College unless and until all sanctions have been satisfied.
b. Employees:
    i. Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee.
    ii. However, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged sexual misconduct/sexual harassment.
    iii. The employee who resigns with unresolved allegations pending is not eligible for rehire with the College, and the records retained by the People & Culture Office will reflect that status.

iv. All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

XXXVIII. Appeals

a. Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within seven (7) business days of the delivery of the Notice of Outcome.
b. An Appeals Officer, chosen from the Title IX Team, will be designated by the Title IX Coordinator, who has not been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.
c. The Request for Appeal will be forwarded to the Appeals Officer for consideration to determine if the request meets the grounds for appeal (a Review for Standing).
d. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.
e. Appeals are limited to the following grounds:
    i. Procedural irregularity that affected the outcome of the matter;
    ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
    iii. The Title IX Coordinator, Investigator(s), or Panel had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.
f. If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeals Officer and the parties and their Advisors will be notified in writing of the denial and the rationale.
g. If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeals Officer will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the Panel.
h. The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Panel will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given seven (7) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Officer to all parties for review and comment.
i. The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeals Officer and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or Panel, as necessary, who will submit their responses in seven (7) business days, which will be circulated for review and comment by all parties.

j. Neither party may submit any new requests for appeal after this time period. The Appeals Officer will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and will render a decision in no more than seven (7) business days, barring exigent circumstances.
k. A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law.
l. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' College e-mail. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.
m. Sanctions Status During the Appeal
    i. Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.
    ii. If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.
    iii. The College may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.
n. Appeal Considerations
    i. Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
    ii. Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
    iii. An appeal is not an opportunity for the Appeals Officer to substitute their judgment for that of the original Panel merely because they disagree with the finding and/or sanction(s).
    iv. The Appeals Officer may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
    v. Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Panel for reconsideration. Other

appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.

vi. Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding or sanction, that decision is final.

vii. In rare cases where a procedural or substantive error cannot be cured by the original Panel (as in cases of bias), the appeal may order a new hearing with a new Panel.

viii. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.

ix. In cases in which the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

XXXIX. **Long-Term Remedies/Other Actions**

a. Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual misconduct/sexual harassment, remedy the effects, and prevent reoccurrence.

b. These remedies/actions may include, but are not limited to:
   i. Referral to counseling and health services
   ii. Referral to the Employee Assistance Program
   iii. Education to the individual and/or the community
   iv. Permanent alteration of housing assignments
   v. Permanent alteration of work arrangements for employees
   vi. Provision of campus safety escorts
   vii. Climate surveys
   viii. Policy modification and/or training
   ix. Provision of transportation accommodations
   x. Implementation of long-term contact limitations between the parties
   xi. Implementation of adjustments to academic deadlines, course schedules, etc.

c. At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

d. When no policy violation is found, the Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access.

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

XL. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

a. All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the Appeals Officer/Panel.
b. Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College and may be noted on a student's official transcript.
c. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

XLI. Recordkeeping

a. The College will maintain for a period of at least seven (7) years records of:
    i. Each sexual misconduct/sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
    ii. Any disciplinary sanctions imposed on the Respondent;
    iii. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
    iv. Any appeal and the result therefrom;
    v. Any Informal Resolution and the result therefrom;
    vi. All materials used to train Title IX Coordinators, Investigators, Panel members, and any person who facilitates an Informal Resolution process. To the extent possible, the College will make these training materials publicly available on the College's website.
    vii. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual misconduct/sexual harassment, including:
    viii. The basis for all conclusions that the response was not deliberately indifferent;
    ix. Any measures designed to restore or preserve equal access to the College's education program or activity; and
    x. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
b. Penn College will also maintain any and all records in accordance with state and federal laws.

XLII. Disabilities Accommodations in the Resolution Process

a. Penn College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's resolution process.
b. Anyone needing such accommodations or support should contact the Disability Services (for students) or People & Culture(for employees), who will review the request and, in consultation with the person requesting the

accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

XLIII. "Process B" Overview

a. Process B is applicable when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
b. If Process A is applicable, Process A must be applied in lieu of Process B.
c. VAWA Section 304 requirements apply to Process B or any alternative process for reports that fall under VAWA.
d. Title IX requirements outside of Section 106.30 (based on the original 1975 regulations, the 2001 Revised Guidance, etc.) may also be applicable to Process B.
e. Penn College will act on any formal or informal allegation or notice of violation of the policy on Sexual Misconduct/Sexual Harassment that is received by the Title IX Coordinator or Mandatory Reporter, as articulated in the Policy above.
f. Penn College will also act on any formal or informal allegation or notice of other violations of this Procedure, which are not included in the Policy, including:
    i. Sexual harassment, including unwelcomed, sex- or gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the College's educational program and/or activities, and may be based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.
    ii. Sexual discrimination, which is any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual's sex or gender identity or expression that is so severe, persistent or pervasive that it unreasonably interferes with or limits a student's ability to participate in or benefit from the College's educational program or activities.
    iii. Non-Consensual Sexual Contact, which is any intentional sexual touching, however slight, with any object, that is without consent and/or by force.
    iv. Non-Consensual Sexual Intercourse, which is any sexual intercourse, however slight, with any object that is without consent and/or by force.
    v. Sexual Exploitation, which occurs when a student takes nonconsensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses.
g. The procedures described below apply to all allegations of Sexual Misconduct/Sexual Harassment involving students, staff, faculty members, or

third parties. Unionized or other categorized employees will be subject to the terms of their respective collective bargaining agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations.

h. These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in College Policy.

XLIV. Initial Assessment

a. Following intake, receipt of notice, or a complaint of an alleged violation of the College's Sexual Misconduct/Sexual Harassment Policy, the Title IX Coordinator engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:
    i. The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
    ii. The Title IX Coordinator works with the Complainant to ensure they have access to an Advisor.
    iii. The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive response or a Formal Investigation.
    iv. If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. The Formal Investigation process is not initiated, though the Complainant can elect to initiate it later, if desired.
    v. If an Informal Resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Informal Resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
    vi. If Formal Investigation is preferred, the Title IX Coordinator initiates the investigation process and determines whether the scope of the investigation will address:
        1. Incident, and/or
        2. A potential pattern of misconduct, and/or
        3. A culture/climate issue.
    vii. In many cases, the Title IX Coordinator may determine that a Risk Assessment should be conducted in coordination with the College Police as part of the initial assessment. A Risk Assessment can aid in ten critical and/or required determinations, including:
        1. Interim suspension of a Respondent who is a threat to health/safety;
        2. Whether the Title IX Coordinator should pursue Formal Investigation absent a willing/able Complainant;
        3. Whether to put the investigation on the footing of incident

and/or pattern and/or climate;
4. To help identify potentially predatory conduct;
5. To help assess/identify grooming behaviors;
6. Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful;
7. Whether to permit a voluntary withdrawal by the Respondent;
8. Whether to impose transcript notation or communicate with a transfer College about a Respondent;
9. Assessment of appropriate sanctions/remedies;
10. Whether a Clery Act Timely Warning/Persona-non-grata is needed.

viii. Based on the initial assessment, the College will initiate one of two responses:
1. Informal Resolution – typically used for less serious offenses and only when all parties agree to Alternate Resolution, or when the Respondent is willing to accept responsibility for violating policy. This can also include a remedies-only response.
2. Formal Resolution Process – investigation of alleged policy violation(s), development of a summary of relevant evidence, and a formal hearing through the Sexual Misconduct Hearing Panel.

ix. The Formal Resolution Process documents the findings of any investigation into an alleged violation of the Sexual Misconduct/Sexual Harassment Policy and/or Procedure and refers those findings to the Sexual Misconduct Hearing Panel to determine if the Sexual Misconduct/Sexual Harassment Policy and/or Procedure were violated and, if so, promptly implement effective remedies designed to end the Sexual Misconduct/Sexual Harassment, prevent recurrence, and address the effects.

x. The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator. At any point during the initial assessment or formal investigation, if the Title IX Coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

xi. The Complainant may request that the Title IX Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator, but the request is usually only granted in extraordinary circumstances.

XLV. Title IX Team

a. The resolution processes rely on a pool of officials (the Title IX Team) to carry out the process. Members of the Title IX Team are announced in an annual distribution of this Policy to all students and their parents/guardians, employees, prospective students, and prospective employees.

b. Members of the Title IX Team are trained annually in all aspects of the resolution process.
c. The Title IX Coordinator, in consultation with the President, carefully vets Title IX Team members for potential conflicts of interest or disqualifying biases and appoints the Title IX Team, which acts with independence and impartiality.
d. Title IX Team members receive annual training organized by the Title IX Coordinator, including a review of College policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability.
e. Title IX Team Membership:
    i. The Title IX Team includes members of the College staff including, but not limited to, representation from Student Affairs, Academic Affairs, Enrollment & Academic Operations, and People & Culture.
    ii. Title IX Team members are usually appointed to 3-year terms. Individuals who are interested are encouraged to contact the Title IX Coordinator.

XLVI. Counterclaims

a. Counterclaims by the Respondent may be made in good faith but are also sometimes made for purposes of retaliation. The College is obligated to ensure that any process is not abused for retaliatory purposes.
b. The College permits the filing of counterclaims, but uses the initial assessment, described above in the Policy section, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation.
c. A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

XLVII. Advisors

a. Expectations of an Advisor
    i. Advisors are permitted to attend any investigation meeting or hearing though this process; however, they are only permitted to provide support to their Party. They may not actively engage in questioning or the sharing of information during any meeting or proceeding.
    ii. The College generally expects an Advisor to adjust their schedule to allow them to attend College meetings when planned, but College may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.
    iii. The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video

conferencing, or other similar technologies as may be convenient and available.

iv. Parties whose Advisors are disruptive or who do not abide by College policies and procedures may face the loss of that Advisor and/or possible Policy violations.

v. Advisors are expected to consult with their advisees without disrupting College meetings or interviews. Advisors do not represent parties in the process; their role is only to advise.

b. Expectations of the Parties with Respect to Advisors

i. Each party may choose an Advisor who is eligible and available to accompany them throughout the process. The Advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

ii. The parties are expected to inform the Investigators of the identity of their Advisor at least two (2) business days before the date of their first meeting with the Investigator(s) or as soon as possible if a more expeditious meeting is necessary or desired.

iii. The parties are expected to provide timely notice to the Investigator(s) and/or the Title IX Coordinator if they change Advisors at any time.

iv. For parties who are entitled to union representation, the College will allow the unionized employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are not permitted to have union representation or Advisors in grievance process interviews or meetings.

v. At the discretion of the Title IX Coordinator, more than one Advisor may be permitted to the parties, upon request. For equity purposes, if one party is allowed another Advisor, the other party must be allowed one to as well.

XLVIII. Resolution Options

a. Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with College Policy.

b. While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose but are encouraged to discuss with their Advisors first before doing so.

c. Informal Resolution

i. Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Alternate Resolution, or when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator can resolve the matter informally by providing

remedies to resolve the situation.

ii. It is not necessary to pursue Informal Resolution first in order to pursue Formal Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Formal Resolution process. Further, if an Informal Resolution fails after the fact, Formal Resolution may be pursued.

iii. Alternate Resolution
    1. Alternate Resolution is an informal process, such as mediation or restorative practices, by which a mutually agreed upon resolution of an allegation is reached. It may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Formal Resolution process (described below) to resolve conflicts. The parties must consent to the use of Alternate Resolution.
    2. The Title IX Coordinator determines if Alternate Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternate Resolution.
    3. In an Alternate Resolution meeting, a trained administrator facilitates a dialogue with the parties to an effective resolution, if possible. Institutionally imposed sanctions are not possible as the result of an Alternate Resolution process, though the parties may agree to accepted sanctions and/or appropriate remedies.
    4. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.
    5. Alternate Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the Formal Resolution process is completed should the parties and the Title IX Coordinator believe it could be beneficial. The results of Alternate Resolution are not appealable.

iv. Respondent Accepts Responsibility for Alleged Violations
    1. The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent accepts responsibility, the Title IX Coordinator makes a determination that the individual is in violation of College Policy.
    2. The Title IX Coordinator then refers that determination to the Student Code of Conduct or appropriate personnel disciplinary process for adjudication.

v. Negotiated Resolution
    1. The Title IX Coordinator, with the consent of the parties, may negotiate and implement any agreement to resolve the

allegations that satisfies all parties and the College.

XLIX. Formal Resolution Process

a. The Investigators typically take the following steps, if not already completed (not necessarily in this order):
   i. Determine the identity and contact information of the Complainant
   ii. In coordination with campus partners, initiate or assist with any necessary supportive measures
   iii. Identify all policies implicated by the alleged misconduct
   iv. Assist the Title IX Coordinator with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
   v. If there is insufficient evidence to support reasonable cause, the process is closed with no further action
   vi. Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
   vii. Meet with the Complainant to finalize their statement, if necessary
   viii. Prepare the initial Notice of Investigation and Allegation on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the notice of the investigation and allegations accordingly and provide it to the parties.
   ix. When formal notice is being given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result
   x. Give an instruction to the parties to preserve any evidence that is directly related to the allegations
   xi. Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
   xii. Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
   xiii. Interview all relevant individuals and conduct follow-up interviews as necessary
   xiv. Allow each party the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses
   xv. Complete the investigation promptly and without unreasonable deviation from the intended timeline
   xvi. Provide regular status updates to the parties throughout the investigation
   xvii. Prior to the conclusion of the investigation, summarize for the parties

the list of witnesses whose information will be used to render a finding

xviii. Write a comprehensive investigation report fully summarizing the investigation and all evidence

xix. Provide parties with a copy of the investigation report

xx. Refer the investigation report on to the Sexual Misconduct Hearing Panel

b. The Sexual Misconduct Hearing Panel typically takes the following steps, if not already completed (not necessarily in this order):
    i. Provide notice of the hearing to all parties no less than five (5) business days prior to the hearing. This notice should include:
        1. The date, time, and location of the hearing.
        2. A copy of the investigation report to all parties.
        3. A list of what parts of the Policy and/or Procedure are alleged to have been violated.
    ii. Hold a live hearing, in which the Panel has the authority to hear and make determinations on all allegations of sexual misconduct/sexual harassment and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual misconduct/sexual harassment, even though those collateral allegations may not specifically fall within this Policy and Procedure. Specifically:
        1. The Panel will have the opportunity to ask questions of the complainant, respondent, and any witnesses.
        2. The hearing will proceed even if the party(ies) fails to attend.
        3. Hearings shall be recorded for appeal purposes.
        4. The Panel Chair shall have discretion over the proceedings and disruptive parties will be removed from the room.
        5. Both Parties shall have ample opportunity to make statements concerning the allegations and an opportunity to ask relevant questions of each other and any witnesses.
        6. The Panel will conduct deliberations in a closed session without the Parties or Witnesses. The Board will determine whether the respondent is responsible or is not responsible for violating the Sexual Misconduct/Sexual Harassment Policy and/or Procedure. If the respondent is found responsible for a violation of this Code, the Panel will determine appropriate sanctions.
        7. The Panel will notify both parties of the determination and, if applicable, any sanctions.

c. Appeals
    i. The parties can appeal the determination to the Title IX Coordinator.
    ii. Appeals are limited to the following grounds:
        1. A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures).

2. To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

iii. The appeal must be made within seven (7) business days of the receipt of the written determination and shall be submitted to the Coordinator in writing.
iv. The Coordinator will make a final determination and inform the parties in writing within seven (7) business days of the receipt of the request for reconsideration.
v. In extenuating circumstances, the Coordinator has the right to extend this deadline and will so notify the parties.
vi. This level of review will be considered as a final level of internal appeal.

L. Additional Details of the Investigation Process

a. Witness responsibilities
   i. Witnesses (as distinguished from the parties) who are faculty or staff of the College are expected to cooperate with and participate in the College's investigation and resolution process. Failure of a witness to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may be subject to discipline.
b. Remote processes
   i. Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) determines that timeliness or efficiency dictates a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this approach is not ideal. Where remote technologies are used, the College makes reasonable efforts to ensure privacy, and that any technology does not work to the detriment of any party or subject them to unfairness.
c. Recording
   i. No unauthorized audio or video recording of any kind is permitted during this process. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.
d. Evidence
   i. Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.
e. Sexual history/patterns
   i. Unless the Title IX Coordinator determines it is appropriate, the

investigation and the finding do not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern; (2) the sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); or (3) the character of the parties.

f. Previous allegations/violations
    i. While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the Title IX Coordinator with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.
g. Character witnesses
    i. Neither the Title IX Coordinator nor the Investigator(s) meet with character witnesses, but the Investigator(s) may accept up to two (2) letters supporting the character of each of the parties. Such letters must be provided to the Investigator(s) prior to the report being finalized; otherwise, the parties have waived their right to provide such letters.

LI. Withdrawal or Resignation While Charges are Pending

a. Students: The College does not permit a student to withdraw if that student has an allegation pending for violation of this Policy/Procedure. The College may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the resolution process to be completed.
b. Employees: Should an employee resign with unresolved allegations pending, People & Culture records will reflect that status, and any College responses to future inquiries regarding employment references for that individual will include the former employee's unresolved status.

LII. Long-Term Remedies/Actions

a. Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the sexual misconduct/sexual harassment; remedy its effects; and prevent its reoccurrence.
b. These remedies/actions may include, but are not limited to:
    i. Referral to counseling and health services
    ii. Referral to the Employee Assistance Program
    iii. Education to the community
    iv. Permanent alteration of housing assignments
    v. Permanent alteration of work arrangements for employees
    vi. Provision of campus safety escorts
    vii. Climate surveys
    viii. Policy modification
    ix. Provision of transportation accommodations

x. Implementation of long-term contact limitations between the parties
xi. Implementation of adjustments to academic deadlines, course schedules, etc.

c. At the discretion of the Title IX Coordinator, long-term remedies may also be provided to the Complainant even if no policy violation is found.
d. When no policy violation is found, the Title IX Coordinator will address any remedial requirements owed by the College to the Respondent.

LIII. Recordkeeping

a. In implementing this process, records of all allegations, investigations, resolutions, and hearings will be kept in two primary locations. Records that are part of the student's permanent academic record are maintained by the Registrar's Office. Records that are part of the student's conduct record are maintained by the Student Affairs Office.
    i. Permanent Academic Record
        1. College Expulsion and Suspension shall become a part of the student's permanent academic record.
        2. No other sanction shall become part of the student's permanent academic record.
    ii. Student Conduct Record
        1. College Expulsion shall become a part of the student's conduct record indefinitely.
        2. All other completed sanctions will be a part of the student's conduct record until 5 years from the date of the incident.

LIV. Disabilities Accommodation in the Resolution Process

a. Penn College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's resolution process.
b. Anyone needing such accommodations or support should contact the Disability Services (for students) or People & Culture (for employees), who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Revision History:

Date:

1/2025 Minor edits for clarity/reimplementation in alignment with 2020 federal regulations.

11/2023 Updated to align with organizational restructure and titles.

08/2020 New Policy and Procedure language for compliance with new 2020 DOE OCR Rules, language in Policy and Procedure is taken from the 2020 ATIXA One Policy/Two Procedures Model, copyrighted by ATIXA, All Rights Reserved.

09/2017 New unified Policy and Procedure that brings together P & PR 3.02.01 (Sexual Harassment) and P & PR 4.07 (Student Sexual Misconduct).

Cross References:

Student Code of Conduct Procedure, PR 4.43
Sexual Misconduct/Sexual Harassment Policy, P 7.30