

POLICY AND PROCEDURES FOR ADDRESSING SEX AND GENDER-BASED DISCRIMINATION AND HARASSMENT ¹

Updated September 5th, 2022

I. POLICY STATEMENT

Susquehanna University is committed to fostering a living, learning and working environment free of discrimination and harassment. The University is subject to Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §§1681, *et seq.*, which states that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Susquehanna University does not discriminate on the basis of sex and will not tolerate sex and gender-based discrimination or harassment in any form, including sexual harassment as defined by Title IX, Susquehanna University’s community standards or other University policies. Susquehanna University’s complete Notice of Anti-Harassment and Non-discrimination policy is available at <https://mysu.susqu.edu/HRPR/Pages/default.aspx>.

II. SCOPE OF POLICY

The core purpose of this policy is the prohibition of all forms of discrimination. This Policy and Procedures for Addressing Sex and Gender-Based Discrimination and Harassment applies to all faculty, staff, and students.

Alleged discrimination and harassment, defined as Prohibited Conduct (*see* Section VI), subject to this Policy includes both Title IX Sexual Harassment (which is defined by law) and, with respect to the conduct of students, other definitions of sex and gender-based discrimination (which include allegations that do not meet the definitions under current Title IX regulations) as discussed further in Definitions (*see* Section V) and Prohibited Conduct (*see* Section VI) below.

Allegations of sex discrimination, sexual harassment and other forms of sexual misconduct on the part of faculty, staff, volunteers or contractors not constituting Title IX Sexual Harassment are subject to the University’s Anti-Harassment and Non-Discrimination Policy for employees and not this Policy.

The procedures below may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed and investigated in accordance with this Policy.

III. TITLE IX AND THE TITLE IX COORDINATOR

The following individuals are responsible for coordinating Susquehanna University’s efforts to comply with Title IX and this Policy:

¹This policy is based on the ATIXA 2022 One Policy, Two Procedures Model. ©2022 ATIXA. Used with permission.

Sarah Olejniczak, Interim Title IX Coordinator, 570-372-4302,
olejniczak@susqu.edu | titleix@susqu.edu, Student Life

Grace Lowry, Deputy Title IX Coordinator for Employees and Senior Director of Human Resources
570-372-4157, lowryg@susqu.edu, Selinsgrove Hall

Amy Davis, Deputy Title IX Coordinator and Assistant Director of Inclusion & Diversity
570-372-4590, davisam@susqu.edu, Degenstein Campus Center

Stephanie Johnson, Deputy Title IX Coordinator and Associate Director of Athletics
570-372-4605, johnsonstephanie@susqu.edu, Garrett Sports Complex

Please contact any of the above with questions regarding Title IX or this Policy. The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the Vice President for Student Life and Dean of Students. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

For complaints involving student conduct, questions may be directed externally to:

Assistant Secretary for Civil Rights
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Telephone: 800-421-3481
TDD#: 877-521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

For complaints involving employee-on-employee conduct, questions may be directed externally to:

[Equal Employment Opportunity Commission](#) (EEOC)
Philadelphia District Office
801 Market Street, Suite 1000
Philadelphia, PA 19107-3126
Telephone: 1-800-669-4000 / 267-589-9700
TTD: 1-800-669-6820
ASL Video Phone: 844-234-5122

Email: PDOContact@eeoc.gov

Web: <https://www.eeoc.gov/field-office/philadelphia/location>

IV. JURISDICTION

In order to constitute Title IX Sexual Harassment, the alleged misconduct must have occurred (i) in the United States, and (ii) in Susquehanna University education program or activity, which is defined as locations, events or circumstances over which Susquehanna University exercised substantial control over both Respondent and the context in which the misconduct occurred, or any building owned or controlled by a student organization officially recognized by the University.

For conduct other than Title IX Sexual Harassment, the University may also extend jurisdiction to additional conduct, including off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial University interest. A substantial University interest includes:

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

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will assist the Complainant in identifying appropriate institutional and local resources and support options. If criminal conduct is alleged, the University can assist in contacting local or institutional law enforcement if the individual would like to file a police report (*see* Section XVIII(E)).

Further, even when the Respondent is not a member of the University's community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator. When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse. All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers as well as University policy, when applicable. In addition, the

University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from the University's property and/or events.

The University has set forth its specific processes for implementing this Policy through the accompanying Title IX-related procedures.

V. DEFINITIONS

Terms used in this Policy have the following meanings:

Advisor: An Advisor is a person who has agreed to provide support and advice to a Complainant or Respondent, subject to the provisions of Section XIII(D).

Appeal Decision-Maker: The individual responsible for determining an appeal under Section XV(K). The Appeal Decision-Maker may be Susquehanna University employee or an external contractor. The Appeal Decision-Maker will not be the Title IX Coordinator, nor the Investigator nor Decision-Maker who were assigned to the matter that is the subject of the Appeal.

Complainant: An individual who is alleged to be the victim of Prohibited Conduct (*see* Section VI), including sexual harassment, identified in this policy.

Consent: A knowing, voluntary and mutual decision among participants to engage in sexual activity, as discussed and further defined in Section VII.

Decision-Maker: The individual responsible for conducting the Hearing under Section XV(H), reaching a decision on responsibility and assigning sanctions, if appropriate. The Decision-Maker may be a Susquehanna University employee or an external contractor. The Decision-Maker shall not be the University's Title IX Coordinator, nor the Investigator who investigated the matter that is the subject of the Hearing.

Education Program or Activity: locations, events, or circumstances where Susquehanna University exercises substantial control over both the Respondent and the context in which the harassment, discrimination, and/or retaliation occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Formal Complaint: A document submitted by a Complainant and bearing the Complainant's physical or digital signature, or otherwise indicating that the Complainant is the one filing the Formal Complaint, requesting that the University investigate the allegations of Prohibited Conduct. The Title IX Coordinator also may sign a Formal Complaint, as discussed in Section XIII, but does not become the Complainant by doing so.

Formal Resolution Process: a method of formal resolution designated by the University to address conduct that falls within the policies included below.

Informal Resolution Facilitator: The individual responsible for facilitating Informal Resolution, as discussed in Section XIV. The Informal Resolution Facilitator may be a Susquehanna University employee, including the Title IX Coordinator, or an external contractor.

Investigator: The individual responsible for conducting the investigation of alleged Prohibited Conduct, as discussed in Section XV(A). The Investigator is required to assess relevance, synthesize the evidence and compile information into an investigation report of Relevant Evidence and share information as provided by this Policy. The Investigator may be a Susquehanna University employee or an external contractor. The Title IX Coordinator may serve as the Investigator.

Party or Parties: Party refers to a Complainant or a Respondent. Parties refers to Complainant and Respondent collectively.

Prohibited Conduct: Behavior and/or conduct that is prohibited by this Policy. It includes Title Sexual Harassment definitions and other forms of sex and gender-based discrimination and harassment as defined in Section VI.

Relevant Evidence: Evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.

Respondent: An individual who has been reported to have engaged in any form of Prohibited Conduct, including sexual harassment or an organization that has been reported to have engaged in other forms of sex and gender-based discrimination and harassment as defined in Section VI.

Witness: A person who has provided information to the Investigator about the events in question. Employees who do not have 12-month contracts but have been identified as a witness and are requested to cooperate with an Investigator or be present for a hearing are still expected to participate in the Formal Resolution Process that may occur during months between contracts.

VI. PROHIBITED CONDUCT

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

The sections below describe the specific forms of legally prohibited discrimination and harassment. When speech or conduct is protected by academic freedom and/or freedom of expression as defined by applicable law or University policy, it will not be considered a violation of the University's Policy, though supportive measures will be offered to those impacted.

A. Discrimination on the basis of sex

Discrimination on the basis of sex under this Policy is defined as actions that deprive members of the community of educational or employment access, benefits or

opportunities on the basis of sex, gender, pregnant/parenting status, gender identity or expression or sexual orientation.

Reported incidents of discrimination that do not meet the threshold of deprivation of access, benefits, or opportunities may be addressed via the University's Anti-Harassment and Non-Discrimination Policy.

B. Title IX Sexual Harassment

The University prohibits Sexual Harassment. Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

The University has adopted the following definitions of sexual harassment in order to address the unique environment of an academic community.

- 1) **TIX Sexual Harassment:** an umbrella category, including the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual harassment includes conduct on the basis of sex,² or that is sexual in nature, that satisfies one or more of the following:
 - a. *Quid Pro Quo:* an employee of the University, implicitly or explicitly conditions the provision of an aid, benefit, or service of the University, on an individual's participation in unwelcome sexual conduct
 - b. *Hostile Environment:* unwelcome conduct determined by a reasonable person to be so severe and pervasive, and objectively offensive that it effectively denies a person equal access to Susquehanna's University or educational program or activity.³
- 2) **TIX Sexual Assault:** includes any of the following:
 - a. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the alleged victim.
 - b. The touching of the private body parts (buttocks, groin, breasts, vulva) of another person for the purpose of sexual gratification without the consent of the alleged victim.
 - c. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

² Including gender identity, gender expression, sexual orientation, and sex stereotypes.

³ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to potentially encompass forms of sex-based disparate treatment, even if not harassing in nature.

- d. Non-forcible sexual intercourse with a person who is under the statutory age of consent.
- 3) **TIx Dating Violence:** Violence, including sexual or physical abuse or the threat of such abuse, committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the alleged victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.⁴
- 4) **TIx Domestic Violence:** Violence committed by a current or former spouse or intimate partner of the alleged victim, by a person with whom the alleged victim shares a child in common, by a person who is cohabitating with or has cohabitated with the alleged victim as a spouse or intimate partner, by a person similarly situated to a spouse of the alleged victim under the domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth alleged victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.
- 5) **TIx Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. For purposes of this definition, (a) course of conduct means two or more acts, including, but not limited to, acts in which the alleged stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; (b) reasonable person means a reasonable person under similar circumstances and with similar identities to the victim; and (c) substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

⁴ Economic abuse in the context of domestic [and] dating violence means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to: restrict a person's access to money, assets, credit, or financial information; unfairly use a person's personal economic resources including money, assets, and credit, for one's own advantage; or exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty (VAWA, 34 U.S.C. 12291)

C. Community Standards Sexual Harassment

Applies to conduct that occurs outside of Title IX Sexual Harassment jurisdiction requirements and affects a substantial University interest as determined by the Title IX Coordinator. This may include:

- 1) **Sexual Harassment:** unwelcome conduct determined by a reasonable person to be severe or pervasive and objectively offensive that unreasonably interferes with, limits or effectively denies a person equal access to Susquehanna's program or activity.
- 2) **Sexual Assault:** includes any of the following:
 - a. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the alleged victim.
 - b. The touching of the private body parts (buttocks, groin, breasts, vulva) of another person for the purpose of sexual gratification without the consent of the alleged victim.
 - c. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. Non-forcible sexual intercourse with a person who is under the statutory age of consent.
- 3) **Dating Violence:** Violence, including sexual or physical abuse or the threat of such abuse, committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the alleged victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.⁵
- 4) **Domestic Violence:** Violence committed by a current or former spouse or intimate partner of the alleged victim, by a person with whom the alleged victim shares a child in common, by a person who is cohabitating with or has cohabitated with the alleged victim as a spouse or intimate partner, by a person similarly

⁵ Economic abuse in the context of domestic [and] dating violence means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to: restrict a person's access to money, assets, credit, or financial information; unfairly use a person's personal economic resources including money, assets, and credit, for one's own advantage; or exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty (VAWA, 34 U.S.C. 12291)

situated to a spouse of the alleged victim under the domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth alleged victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

- 5) **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. For purposes of this definition, (a) course of conduct means two or more acts, including, but not limited to, acts in which the alleged stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; (b) reasonable person means a reasonable person under similar circumstances and with similar identities to the victim; and (c) substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- 6) **Sexual Exploitation**, defined as:
- a. an individual taking non-consensual or abusive sexual advantage of another
 - b. for their own benefit or for the benefit of anyone other than the person being exploited, and
 - c. that conduct does not otherwise constitute Sexual Harassment under this Policy.

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

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection

- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person’s identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person’s will by threatening to show, post, or share information, video, audio, or an image that depicts the person’s nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child pornography

D. **Retaliation** as defined in Section VIII.

E. **Online Harassment and Misconduct**

The University’s policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited above, when those behaviors occur in or have an effect on the education program and activities offered by the institution or when they involve the use of the University’s networks, technology, or equipment.

The University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion, for any violation of this Policy for students. The University also reserves the right to impose any level of sanction, ranging from a reprimand up to and termination, for any violation of Title IX Sexual Harassment violations for employees. More information on Sanctions can be found in Section XV(J).

VII. CONSENT

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain

consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

For purposes of this Policy, consent is present when words or actions manifest a knowing, active, voluntary, and present agreement to engage in specific sexual or intimate contact.⁶ When determining whether consent was present, the University will consider whether a reasonable person(s) in the same position as the Respondent(s) knew, or reasonably should have known, whether a Complainant was able to freely give consent and whether consent was given. Being intoxicated or impaired by drugs or alcohol does not excuse one from the responsibility to obtain consent.

Knowing: Consent must demonstrate that all individuals understand, are aware of, and agree to the “who” (same partners), “what” (same acts), “where” (same location), “when” (same time), and “how” (the same way and under the same conditions) of the sexual activity. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person.

Active: Consent must take the form of words or actions that reveal one’s expectations and agreement to engage in specific sexual activity. This means that silence, passivity, submission, or the lack of verbal or physical resistance (including the lack of a “no”) should not – in and of themselves – be understood as consent. Consent cannot be inferred by an individual’s manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location or going on a date.

Voluntary: Consent must be freely given and cannot be the result of respondent’s coercion. Coercion is the use of express or implied threats, intimidation, or physical force which places an individual in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. A person’s words or conduct amount to coercion if they wrongfully impair the other’s freedom of will and ability to choose whether or not to engage in sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance with the intent to impair that person’s ability to consent prior to engaging in sexual activity.

Present: Consent must exist at the time of the sexual activity. Consent to previous sexual activity does not imply consent to present sexual acts; similarly, consent to one type of sexual activity does not imply consent to all sexual activity. Consent may also be withdrawn at any time, provided the person withdrawing consent makes that known in words or actions.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in

⁶ The Consensual Sexual or Romantic Relationships with Students Policy is an additional policy that applies to faculty and staff and prohibits intimate or romantic relationships with students.

which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM⁷ or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, thus the University’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

Incapacitation:

Consent cannot be obtained from an individual who is incapacitated, where a reasonable, sober person initiating sexual activity would have known or reasonably should have known that the individual was incapacitated. An individual who is under the influence of alcohol and/or other drugs may be incapacitated, and therefore unable to Consent. However, consumption of alcohol or other drugs alone is insufficient to establish incapacitation. Incapacitation is a state beyond drunkenness or intoxication, where an individual cannot make a knowing and deliberate choice to engage in the sexual activity. Individuals who are asleep, unresponsive or unconscious are incapacitated. Other indicators that an individual may be incapacitated include, but are not limited to, the inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance. An individual also may be incapacitated due to a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Consent may be withdrawn by any party at any time. An individual who seeks to withdraw consent must communicate, through clear words or actions, a decision to cease the sexual activity. Consent is automatically withdrawn when a party is no longer capable of consenting. Once Consent is withdrawn, the sexual activity must cease immediately. Consent must be re-established before resuming any sexual activity. Consent to one form of sexual activity does not, by itself, constitute consent to another form of sexual activity. Consent to sexual activity on one occasion does not constitute consent to sexual activity on other occasions. An individual’s use of alcohol or drugs does not diminish that individual’s responsibility to obtain Consent.

VIII. RETALIATION

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

⁷ Bondage, discipline/dominance, submission/sadism, and masochism.

The University and any member of Susquehanna's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

Filing a complaint under a different conduct process or filing a counter complaint could be considered retaliatory if those allegations are made for the purpose of interfering with or circumventing any right or privilege provided afforded within the formal resolution/grievance process. Therefore, the University carefully vets all complaints to ensure this does not happen, and to ensure that complaints are routed to the appropriate process.

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

Pursuing a code of conduct violation for making a materially false statement in bad faith in the course of a formal resolution process under this Policy and procedure does not constitute retaliation, provided that the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

IX. REPORTING

Any person at the University is encouraged to report conduct constituting possible Prohibited Conduct by: (a) reporting directly to the Title IX Coordinator, Deputy Title IX Coordinator(s) or any other Official with Authority as defined in Section IX(D) in person, by mail, by telephone, or by email **or** (b) completing the online⁸ reporting form available at: www.susqu.edu/title-ix.

The Title IX Coordinator or designee will promptly contact the Complainant to discuss the availability of Supportive Measures (*see* Section XI) and to explain the process for filing a Formal Complaint.

Complainants are encouraged, but not required, to proceed with a Formal Complaint. If the Complainant desires to proceed with a Formal Complaint, the Title IX Coordinator or designee will begin the Formal Resolution Process (*see* Section XV).

Because reporting carries no obligation to initiate a formal response, and because the University respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows the University to discuss and/or provide supportive measures. A Complainant is not required to submit a Formal Complaint to receive Supportive Measures.

⁸ Only individuals with explicit authorization from SU (based on their role and official duties) may enter, update, access, share or disseminate electronic data related to incidents of sexual misconduct and gender-based violence via the online reporting form. Any information shared outside of the institution will be documented. SU immediately and permanently revokes authorization if an individual enters, shares, updates or disseminates data in violation of this policy (PA Senate Bill 295, 2019, P.L.30, No.14).

As used in this Policy, the term “Formal Complaint” means a document or electronic submission, through an online portal provided by the University, that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the University investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

A. Anonymous Reporting

With the exception of Officials with Authority and Responsible Employees, discussed in Section IX(D), any individual may anonymously report allegations of Prohibited Conduct via the online reporting form available at: <https://www.susqu.edu/title-ix/>. This form goes directly to the Title IX Coordinator(s). Depending on the level of information available about the incident or the individuals involved, the University’s ability to respond to an anonymous report may be limited, but the Title IX Coordinator will conduct an initial assessment. Anonymous reports that do not require additional investigation are used for aggregate reporting. The University will, however, take whatever steps it deems appropriate and in the best interests of the overall University community, consistent with the information available.

B. Confidential Resources

Confidential Resources will not share information about an incident unless (1) given permission to do so by the person who disclosed the information; (2) there is an imminent threat of harm to self or others; (3) the conduct involves suspected abuse of a minor under the age of 18; or (4) as otherwise required or permitted by law or court order.

At Susquehanna, Confidential Resources are limited to professional, licensed counselors, medical professionals, privileged victim advocates, and pastoral counselors who provide mental health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor). Following is contact information:

- Counseling and Psychological Services, 606 University Ave. Selinsgrove, PA | 570-372-4751 (24/7)
- University Chaplain, Degenstein Campus Center / Weber Chapel | 570-372-4220
- Director of Jewish Life, Hillel House | (570)-372-4440
- Campus Victim Advocate, Violence Intervention and Prevention Center / Transitions of PA | 1-570-490-2698 (business hours) | 1-800-850-7948 (24/7)
- Student Health Center, 620 University Ave. Selinsgrove, PA | 570-372-4385(business hours) | 570-374-9164 (after hours)
- Employee Assistance Program | workhealthlife.com/Standard3 | 1-888-293-6948 | TDD: 1-800-327-1833

C. **Reports to Officials with Authority and Responsible Employees**

There may be instances when a student or employee discloses alleged Prohibited Conduct to an employee of Susquehanna University. Whether that disclosure constitutes actual notice to the University triggering its response obligations under this Policy, depends on the role of the employee to whom the disclosure is made⁹, as follows:

- **Officials with Authority**: A disclosure or report of Prohibited Conduct made to an employee in this category (regardless of whether the disclosure is made by the Complainant or a third party) constitutes a report to the University (*i.e.*, actual knowledge), triggering a response under this Policy. All Officials with Authority are required to promptly report disclosures of Prohibited Conduct to the Title IX Coordinator, including all information that has been disclosed to the Official with Authority, such as the names of those involved, the location of the incident, the alleged Prohibited Conduct, etc. The following individuals are Officials with Authority:
 - Title IX Coordinator and Deputy Title IX Coordinators
 - Vice President for Student Life and Dean of Students
- **Responsible Employees**: While a disclosure or report of Prohibited Conduct made to a Responsible Employee (regardless of whether the disclosure is made by the Complainant or a third party) does not constitute a report to the Institution (*i.e.*, is not “actual knowledge”) as defined by Title IX., as a matter of policy, Susquehanna University, requires Responsible Employees to promptly report disclosures of Prohibited Conduct to the Title IX Coordinator.

Employees must also promptly share all known details of a report made to them in the course of their employment, regarding details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third party.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the University.

When a Responsible Employee is engaged in harassment or other violations of this Policy, they still have a duty to report their own misconduct, though the University is technically not on notice simply because a harasser is also a Responsible Employee unless the harasser does in fact report themselves.

⁹ If the reported incident involves the abuse of a minor, all employees regardless of designation are mandated by law to report the incident.

A Responsible Employee who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so. The following individuals are Responsible Employees:

All faculty, staff or student staff members, including stipend positions, employed by the University who have not otherwise been specifically identified and defined in this Policy as a Confidential Resource as defined above.

Failure of an Official with Authority or a Responsible Employee, as described above in this section, to report an incident of harassment, discrimination, or retaliation of which they become aware is a violation of University Policy and can be subject to disciplinary action for failure to comply/failure to report.

D. Privacy and Confidentiality

Susquehanna University respects the privacy¹⁰ of individuals involved in any report of alleged Prohibited Conduct, meaning the Title IX Coordinator and others responsible for carrying out this Policy will disclose information only as required to implement this Policy or by law. If a Complainant requests that a report of Prohibited Conduct remain confidential (*i.e.*, with the Complainant's identity not being disclosed to the Respondent and an investigation not being commenced), the Title IX Coordinator will evaluate that request in the context of Susquehanna University's responsibility to provide a safe and nondiscriminatory environment for all members of its community. Susquehanna University may question an employee-Respondent about alleged Prohibited Conduct without disclosing the identity of the Complainant, provided that it does not take disciplinary action against that Respondent without implementing the Formal Resolution Process in Section XV.

The Complainant is not required to file a Formal Complaint to receive Supportive Measures (*see* Section XI), but there may be instances when disclosing the Complainant's identity is necessary to provide certain Supportive Measures (*e.g.*, where the Respondent would need to know the identity of the Complainant to comply with a no-contact order). Susquehanna University will maintain privacy when Supportive Measures

¹⁰ For the purpose of this Policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of University employees who "need to know" in order to assist in the assessment, investigation, and resolution of the complaint. All employees who are involved in the University's response to notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in the University's Student Records Policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws (including Title IX) that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses (*see* Section IX(B)).

are provided to the Complainant or Respondent, to the extent that maintaining such privacy would not impair its ability to provide the Supportive Measures.

E. False Reports and Other False Information

The submission of knowingly false information is prohibited and will be addressed under Susquehanna University's Code of Conduct for students and employment policies for faculty and staff. Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under appropriate University policies. This provision does not apply to reports made and other information submitted in good faith, even if the facts alleged are not substantiated by an investigation and/or hearing decision.

F. Time Limits on Reporting

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

Acting on complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When a complaint is affected by significant time delay, the University will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint

G. Amnesty

The health and safety of every person at Susquehanna University is of utmost importance. SU recognizes that students who have been drinking or using drugs, whether such use is voluntary or involuntary, at the time that violence, including, but not limited to, domestic violence, dating violence, stalking or sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. We strongly encourage students to report domestic violence, dating violence, stalking or sexual misconduct to University officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual misconduct to Susquehanna University officials or law enforcement will not be subject to SU's code of conduct action for violations of alcohol or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual misconduct.¹¹

¹¹ This language is required by PA Senate Bill 37 and cannot be altered.

For situations outside of this Policy a Complainant or a third-party witness, may be eligible for medical amnesty under the Medical Amnesty Policy.

H. Timely Warnings

In compliance with federal law, the University will provide timely notice to the campus community regarding certain crimes covered by the Clery Act that are reported to a “Campus Security Authority” (as defined under the Clery Act) and that are considered to be a serious or continuing threat to the safety of students and employees. The manner of notification depends upon the particular circumstances of the crime. The University will make every effort not to release personally identifying information while still providing enough detail for community members to make safety decisions in light of the danger.

X. EMERGENCY REMOVALS

If at any point following the receipt of a report of Prohibited Conduct, Susquehanna University determines that the Respondent poses an immediate threat to the physical health or safety of the Complainant or any other person(s), including the Respondent, Susquehanna University may temporarily remove the Respondent from any or all its programs or activities. The imposition of an Emergency Removal does not suggest a finding of responsibility for any Prohibited Conduct.

Before imposing an Emergency Removal, the VP for Student Life & Dean of Students (students) or the Senior Director of Human Resources (employees) will undertake an individualized safety and risk analysis concerning the Respondent at the request of the Title IX Coordinator. An Emergency Removal will be imposed only if the Senior Director of Human Resources or the VP for Student Life & Dean of Students, as appropriate, concludes that the threat to physical health or safety arises from the allegations of Prohibited Conduct and warrants the removal.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. An Emergency Removal may involve the denial of access to some or all of Susquehanna University campus facilities, academic program, or other programs or activities. While Susquehanna University may provide alternative academic or employment opportunities during an Emergency Removal, it is not required to do so. Non-punitive actions taken as Supportive Measures (*e.g.*, changes in housing) do not constitute Emergency Removals.

The Title IX Coordinator or designee will notify the Respondent of the terms imposed in connection with an Emergency Removal. The Respondent will be given access to a written summary of the basis for the emergency removal prior to their removal to allow for adequate response. The Respondent can challenge the Emergency Removal upon receipt of that notice prior to such action/removal being imposed. To challenge the Emergency Removal, the Respondent shall submit an appeal via email explaining why Emergency Removal is not appropriate to the Provost & Dean of the Faculty (students), the Vice President for Operations (staff) or the Provost and Dean of Faculty (faculty) within three (3) calendar days from the date of the notice of Emergency Removal. The appeal should not focus on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate.

In evaluating the appeal, the Vice President for Operations for Staff or Provost and Dean of Faculty for faculty and students, as appropriate, may seek additional information from Respondent or any other individual. The Emergency Removal will remain in place while the appeal is pending. The Vice President for Operations or Provost and Dean of Faculty for faculty and students shall issue a decision as soon as possible under the circumstances. The decision is final and not subject to further appeal.

The Title IX Coordinator has discretion under this Policy to modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact on the parties as possible.

Separate from the Emergency Removal process, the Title IX Coordinator may request that Senior Director of Human Resources place an employee-Respondent on an administrative leave, with or without pay.

XI. SUPPORTIVE MEASURES

Supportive Measures are non-disciplinary, non-punitive individualized services that may be provided to Complainants and Respondents upon request, when deemed by Susquehanna University to be appropriate and reasonably available. The Title IX Coordinator will serve as the point of contact for the affected student(s) to ensure that the supportive measures are effectively implemented. Supportive Measures may also be imposed at the initiative and in the sole discretion of the Title IX Coordinator. Supportive Measures are offered without fee or charge to the parties and are available beginning at any time after the submission of a report of Prohibited Conduct.

A Complainant may seek and be provided Supportive Measures prior to or without ever filing a Formal Complaint.

Supportive Measures are designed to restore or preserve equal access to Susquehanna University educational programs and activities, without unreasonably burdening the other party. The University will act to ensure as minimal an academic impact on the parties as possible. Supportive Measures will be kept confidential to the extent doing so does not impair the University's ability to provide them. Supportive Measures that Susquehanna University may implement may include, but are not limited to, the following:

- Referral to counseling, medical and/or healthcare services;
- Referral to community-based service providers;
- Academic support, extensions of deadlines or other course/program-related adjustments;
- Modification of work or class schedules;
- Altering campus housing assignment(s);

- Altering work arrangements for employees or student employees;
- Assistance navigating the leaves of absence process;
- Assistance finding additional financial aid options, if income, financial resources, or employee/student status changes
- Safety planning
- Education to the community or community subgroup(s)
- Advocacy in seeking visa and/or immigration assistance
- Assistance utilizing the Employee Assistance Program
- Transportation accommodations;
- Restrictions on contact between the parties (*i.e.*, “no contact” orders).¹² Such an order serves as notice to both parties that they must not have verbal, electronic, written, or third-party communication with one another).
 - In some cases, an individual may also wish to consider a Protection from Abuse Order from the local courts. This is a civil proceeding independent of the University. An individual has the right to file for a Protection from Abuse Order or Sexual Violence Protection Order with the help of an on-campus advocate. The campus advocate is located in the Violence Intervention and Prevention Center in the lower level of the Blough-Weis Library or available 24/7 at 1-800-850-7948. An individual also has the right to file a petition for a Protection from Abuse Order on their own at the Snyder County Courthouse Prothonotary’s Office.
 - The process for acquiring an order, includes an individual completing paperwork (with a campus advocate or on their own) about any incident(s) of misconduct and abuse. The paperwork will be filed with Snyder County Courthouse. Upon being filed, the individual who filed along with the alleged defendant will receive an order to appear in court. At that hearing, the individual can represent themselves or bring an attorney to testify about the alleged misconduct and/or abuse. If a temporary and/or final Protection from Abuse (“PFA”) court order is issued, the Department of Campus Safety in conjunction with the local Selinsgrove Borough Police Department will serve the individuals named within the court order. Additionally, the University will, to the extent possible, assist the person who has obtained a PFA in benefiting from the restrictions imposed by the court and will also facilitate on-campus compliance with the order, as per the statute set forth by Commonwealth of PA.
- Access to campus safety escorts;
- Increased security and monitoring of certain areas; or
- Any other measures deemed appropriate by the Title IX Coordinator to preserve equal access to Susquehanna University programs and activities.

A student or employee’s failure to abide by the terms of any Supportive Measure may result in discipline and, depending on the circumstances, could be deemed to constitute Retaliation.

¹² Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

XII. PRESERVATION OF EVIDENCE

Although in the immediate aftermath of an incident, an individual may not be interested in reporting the incident to the University or in pressing criminal charges, preserving evidence immediately can be vital to a successful investigation if in the future if an individual decides to move forward with a civil, criminal, or University conduct case, or seeks a protective order. This information is also provided in writing after a report has been made to the University.

Here are some tips on preserving evidence:

- Avoid any of the following before seeking medical attention: showering, bathing, douching, brushing of teeth, going to the bathroom, drinking, and/or change of clothing.
- Similarly, any clothing, towels or bedding should remain untouched pending collection by law enforcement.
- If an individual has any bruising or injuries, they should take photos of the bruising with a camera and document the date and time of the photograph (cell phones automatically do this). If an individual goes to the hospital, they can do this as it is deemed necessary.
- Document the harassment, abuse, or stalking behavior by logging details, dates, and times of incidents.
- Save any voicemails, screenshots of text messages, and social media posts, etc.
- Share locations with friends, classmates, and coworkers.
- Collect and/or call Campus Safety to collect any trinkets, notes, gifts, etc. that someone may have left for you to find.
- Record the names of any witnesses.

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

XIII. FILING A FORMAL COMPLAINT

Upon receipt of an alleged policy violation, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps the University needs to take. The Title IX Coordinator will contact the Complainant to offer supportive measures and determine whether the Complainant wishes to file a Formal Complaint.

The Title IX Coordinator will then initiate at least one of three responses:

- 1) Implementing supportive measures (with or without submission of a Formal Complaint)
- 2) An Informal Resolution (upon submission of a Formal Complaint)
- 3) A Formal Resolution Process including an investigation and a hearing (upon submission of a Formal Complaint)

In order to commence an Informal Resolution (see Section XIV) or Formal Resolution Process (see Section XV), a Complainant must file a Formal Complaint alleging Prohibited Conduct under this Policy with the Title IX Coordinator. Pursuing a Formal Complaint does not preclude a Complainant from pursuing the filing of criminal charges. However, it is important to

understand that the standard for criminal prosecution is different from that used in student and employee conduct proceedings. As a result, decisions rendered in either forum are not determinative of what will happen in the other.

If the Complainant decides not to submit a Formal Complaint, the Title IX Coordinator may sign a Formal Complaint when the Title IX Coordinator deems doing so necessary to address the possible Prohibited Conduct, including to provide a safe and nondiscriminatory environment for all members of Susquehanna University community. In deciding whether to sign a Complaint if the Complainant elects not to do so, the Title IX Coordinator may, but is not required to, consider factors such as whether the conduct alleged included threats, violence, serial predation, or weapons. The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University's ability to pursue a Formal Resolution Process fairly and effectively. When the Title IX Coordinator executes the written complaint, they do not become the Complainant.

Note that the University's ability to remedy and respond to notice may be limited if the Complainant does not want the University to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community.

The University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

If the Title IX Coordinator receives Formal Complaints against more than one Respondent or by more than one Complainant against one or more Respondents, or by one Party against the other Party (i.e., "counterclaims"), where the allegations of sexual harassment arise out of the same facts or circumstances and are so intertwined that the allegations directly relate to all of the Parties, the Title IX Coordinator has the discretion to consolidate the Formal Complaints. If Formal Complaints are consolidated, all Parties must receive the same version of the written determination.

A. Written Notice

Upon the submission of a Formal Complaint, the Title IX Coordinator will provide written notice to the Complaint and Respondent, if known, including the following:

- A copy of this Policy
- A copy of their rights
- Notice of the allegations of conduct that may constitute Prohibited Conduct, with sufficient detail for the Respondent to prepare a response before any initial interview, including, if known, the identities of the Parties involved and the date and location of the incident
- A statement of the potential sanctions/responsive actions that could result
- A statement about the University's policy on retaliation
- Information about the confidentiality of the process
- Details on how the party may request disability accommodations
- The presumption that the Respondent is not responsible for the alleged Prohibited

Conduct unless a determination of responsibility is reached at the conclusion of the Formal Resolution Process

- Notice of the Parties' entitlement to an Advisor of choice at any meeting, interview or other proceeding related to the Formal Complaint, as discussed in Section XIV/XV
- The identity of the Investigator as described in Section XV(A),
- Notice that the Parties may inspect, and review evidence gathered during the investigation as discussed in Section XV(D),
- An instruction to preserve any evidence that is directly related to the allegations
- Notice that Susquehanna University Code of Student Conduct for students and the Anti-Harassment and Non-Discrimination policy and Disciplinary Action Policy for faculty and staff prohibits knowingly making false statements or knowingly submitting false information during the Formal Resolution Process

If additional allegations of conduct that might constitute Prohibited Conduct are identified during the investigation that will be addressed through the Formal Resolution Process, the Title IX Coordinator will issue an updated notice.

B. Dismissal for Purposes of Title IX Sexual Harassment¹³

If any of the following circumstances are met, the Title IX Coordinator will dismiss the Formal Complaint for purposes of any form of Title IX Sexual Harassment:

- The Complainant is not participating in or attempting to participate in the education program or activity.
- Even if proved, the misconduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined in Section VI;
- The misconduct alleged in the Formal Complaint did not occur in Susquehanna University's education program or activity, which is defined as locations, events or circumstances over which Susquehanna University exercised substantial control over both Respondent and the context in which the misconduct occurred, or any building owned or controlled by a student organization officially recognized by Susquehanna University; or
- The misconduct alleged in the Formal Complaint is not alleged to have occurred in the United States.

Further, if any of the following circumstances are met, the Title IX Coordinator may dismiss the Formal Complaint for purposes of any form of Prohibited Conduct, in the Title IX Coordinator's sole discretion:

- Complainant notifies the Title IX Coordinator in writing that Complainant wishes to withdraw the Formal Complaint or any allegation in it;
- Respondent is no longer enrolled or employed at Susquehanna University

¹³ These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

- If a Respondent voluntarily withdraws and wishes the case to be dismissed on these grounds, they must submit a notification in writing to the Title IX Coordinator requesting a dismissal. The Title IX Coordinator has sole discretion to determine whether to grant the dismissal request. If a dismissal is granted, an alleged Respondent would not be eligible to re-enroll in the future and that information would be shared with future institutions who were requesting information with respect to state and federal law. Furthermore, the case would not be formally dismissed until the Title IX Coordinator was notified by the University that the party was officially withdrawn from the institution.
- Specific circumstances prevent Susquehanna University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegation.

The Title IX Coordinator will promptly send notice of the dismissal, including the reasons for dismissal, to the Complainant and Respondent simultaneously via email. The notice will advise the parties whether the Formal Complaint will proceed further and, if so, whether it will do so via the same process under another definition of Prohibited Conduct as defined in Section VI. Both the Complainant and Respondent may appeal any decision to dismiss the Formal Complaint for purposes of Title IX Sexual Harassment by submitting a request for appeal to the Title IX Coordinator. The appeal will be determined using the procedures set forth in Section XV(K).

The decision whether the matter will proceed as another form of Prohibited Conduct within this policy or as a possible violation of the Anti-Harassment and Non-Discrimination policy is not subject to appeal.

C. Counterclaims

The University is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. The University permits the filing of counterclaims but uses an initial assessment, to assess whether the allegations in the counterclaim are made in good faith.

Counterclaims determined to have been reported in good faith will be processed using the Grievance Process in this section. Investigation of such claims may take place after resolution of the underlying initial complaint, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying complaint, 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.

D. Advisors

The Parties are entitled to identify an Advisor of their choice, who may accompany them to all investigative interviews, hearings and other meetings or proceedings held in

connection with a Formal Complaint. An Advisor is a person who has agreed to provide support and advice to a Complainant or Respondent. The Parties are responsible for identifying their own Advisor, if they wish to have one. An advisor may be a friend, parent, family member, attorney or another member of the Party's choice. Either Party may choose to change their advisor at any point in the process. If an individual serves as both an Advisor and has a role as a witness in the matter, they may limit the efficacy of their statement as a witness because the Decision-maker may discount their credibility based on their dual roles.

Susquehanna University will maintain a list of employees who have agreed to serve as Advisors at no cost to Complainants or Respondents, whom the Complainant or Respondent may, but are not required to, contact to determine whether they are available for that purpose. The University 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 University is not obligated to provide an attorney.

As discussed in Section XIII(D), the Parties must have an Advisor for purposes of conducting cross-examination at a hearing. If a Party has not identified an Advisor to accompany them to the hearing for purposes of conducting cross-examination, Susquehanna University will provide one for that limited purpose.

Except when conducting cross-examination as discussed in Section XV(H), Advisors may not speak on behalf of the person they are advising. The Advisor may confer with the individual whom they are advising quietly or by means of written notes. Parties may request a brief recess to consult with their Advisor, which may be granted at the sole discretion of the Investigator, Title IX Coordinator or Decision-Maker depending on who is leading the schedule meeting, interview, hearing, etc. An Advisor whose presence is deemed at that individual's sole discretion to be improperly disruptive or inconsistent with Rules of Decorum established by the University, as discussed in Section XV(H)(vii), will be required to leave and may be prohibited from participating in future Formal Resolution Process proceedings.

While Susquehanna University may consider short delays in scheduling to reasonably accommodate an Advisor's availability, whether to grant such a request is in the sole discretion of the Susquehanna University representative responsible for the event in question.

1. Sharing Information with the Advisor

The University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. The University provides a consent form that authorizes the University to share such information directly with a party's Advisor with respect to FERPA. The parties must complete and submit this form to the Title IX Coordinator before the

University is able to share records with an Advisor. Advisors are expected to maintain the privacy of the records shared with them.

2. Expectations of the Parties with Respect to Advisors

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).

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 should be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least seven (7) calendar days before the hearing.

XIV. INFORMAL RESOLUTION PROCESS

The Formal Resolution Process is the University's primary resolution approach unless Informal Resolution is elected by all parties and the University.

Informal Resolution presents the opportunity for the Complainant and Respondent to resolve allegations of Prohibited Conduct without an investigation or hearing. Participation in Informal Resolution in lieu of the Formal Resolution Process is purely voluntary. Informal Resolution is available only when a Formal Complaint has been filed and the Parties agree to its use in writing. Informal Resolution may be used only with the approval of the Title IX Coordinator, who may deem its use inappropriate based on the specific allegations involved or other factors. Informal resolution is not available to resolve a student-Complainant's allegations that an employee has engaged in Title IX Sexual Harassment.

Prior to initiating Informal Resolution, the Title IX Coordinator will provide the Parties with written notice disclosing the allegations, the requirements of the process, the right to withdraw from Informal Resolution to pursue formal resolution, information regarding any records that will be maintained or shared by the University, and any consequences of participation (*e.g.*, as it relates to any subsequent formal resolution if Informal Resolution is not achieved and if a Respondent plans to utilize an "Accepted Responsibility" informal resolution process).

Informal Resolution can be commenced at any point prior to the conclusion of a hearing under the Formal Resolution Processes. It is conducted by the Title IX Coordinator, or an Informal Resolution Facilitator appointed by the Title IX Coordinator. The Complainant, Respondent, Title IX Coordinator or Facilitator may terminate Informal Resolution at any time prior to its completion. If Informal Resolution is terminated, the Formal Resolution Process will promptly commence or resume, as appropriate.

If the Informal Resolution is terminated such that the matter resumes the Formal Resolution Processes, all documents would be forwarded to the Title IX Coordinator to determine whether or not they will be included in the Formal Resolution Process. Documents created for the purposes of the informal resolution will not be included in the Formal Process, but evidentiary documents produced for consideration by the facilitator can be used in the hearing.

Informal Resolution can take two primary forms as voluntarily agreed to by the Complainant, Respondent and Title IX Coordinator:

- **Alternative Resolution:** When the parties agree to resolve the matter through an alternative resolution mechanism (including mediation, restorative practices, facilitated dialogue, etc.), as described below, often before a formal investigation takes place.
- **Accepted Responsibility:** When the Respondent accepts responsibility for violating policy, and desires to accept the recommended sanction(s) and end the Resolution Process.

The parties may not enter into an agreement that requires the University to impose specific sanctions, though the parties can agree to certain restrictions or other courses of action. For example, the parties cannot require a student be suspended, but the parties can agree that the Respondent will temporarily or permanently withdraw. The only Informal Resolution Process that can result in sanctions levied by the institution is “Accepted Responsibility,” as defined below. The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

A. Alternate Resolution Approaches

Alternative Resolution is an informal approach including mediation, restorative practices,¹⁴ facilitated dialogue, etc. by which the parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Alternative Resolution approach. Alternate Resolution Approaches can be achieved via the option of shuttle diplomacy meaning the facilitator goes back and forth between both Parties until a resolution is reached.

¹⁴ Restorative practices means a practice relating to a specific harm that is a) community based and unaffiliated with any civil or criminal legal process, b) initiated by a victim of harm c) involves on a voluntary basis and without any evidence of coercion or intimidation of any victim of the harm by any individual who committed the harm or anyone associated with any individual – 1 or more individuals who committed the harm; 1 or more victims of the harm; and the community affected by the harm through 1 or more representatives of the community. It shall include and has the goal of: a) collectively seeking accountability from 1 or more individuals who committed the harm; b) developing a written process whereby 1 or more individuals who committed the harm will take responsibility for the actions that caused harm to 1 or more victims of the harm; and c) developing a written course of action plan, that is responsive to the needs of 1 or more victims of the harm and upon which 1 or more victims, 1 or more individuals who committed the harm and the community can agree. Restorative practices should be conducted in a victim services framework that protects the safety and supports the autonomy of the 1 or more victims of the harm and the community (VAWA 34 U.S.C. 12291).

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

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

The ultimate determination of whether Alternative Resolution is available or successful is made by the Title IX Coordinator.

The Title IX Coordinator maintains records of any resolution that is mutually agreed upon and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, referral to the conduct process for failure to comply). Results of complaints resolved by Alternative Resolution are not appealable.

B. Respondent Accepts Responsibility for Alleged Violations

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 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 in Section A.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, restrictions and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of the University policy and implements agreed-upon restrictions and remedies and determines the appropriate sanction(s) in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon resolution terms. When the parties cannot agree on all terms of resolution, the Formal Resolution Process will resume at the same point where it was paused.¹⁵

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

The outcome of the Informal Resolution will be documented in an agreement or other form that is signed by both the Complainant and the Respondent. The outcome will be reported placed in the student's file, but not listed as a formal conduct proceeding and therefore won't be considered in future findings of responsibility for Prohibited Conduct or other violations of Susquehanna University's Code of Conduct.

The Informal Resolution process typically should be completed within thirty (30) calendar days of the Parties documenting their agreement to participate. That period may be extended at the discretion of the Title IX Coordinator, with notice to the parties.

XV. FORMAL RESOLUTION PROCESS

All Prohibited Conduct identified in Section VI, including prohibited conduct outside of Title IX Sexual Harassment will be addressed through the process outlined in this section.

Resolution proceedings are private. All persons present at any time during the Formal Resolution Process are expected to maintain the privacy of the proceedings in accordance with Susquehanna's 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 as part of an Informal Resolution. The University encourages parties to discuss any sharing of information with their Advisors before doing so.

Susquehanna University strives to resolve Formal Complaints within ninety (90) calendar days of the submission of a Formal Complaint but balances its desire to achieve a prompt resolution with the need to conduct a thorough and complete investigation, which may delay that timeframe. Delays might also result from several factors, including but not limited to the appeal of a dismissal as discussed in Section XV(K), impacts of concurrent criminal processes, or an attempt at Informal Resolution. The Title IX Coordinator may extend the time for completion of

¹⁵ The parties may not want discussions that take place within Informal Resolution to be admissible in a later Formal Resolution Process, but essential facts must and do transfer from the informal process to the formal. Disclosing something in an informal setting to shield it from formal admissibility can be strategic, so the University will not make assurances of the confidentiality of the Informal Resolution.

the Formal Resolution Process for good cause as determined in the sole discretion of the Title IX Coordinator and will provide written notice to the Parties of the reason for extension or delay.

At the discretion of the Title IX Coordinator, possible violations of the Student Code of Conduct or other policies that occurred directly in connection with the alleged Prohibited Conduct may be, but are not required to be, addressed under the Formal Resolution Processes here in lieu of engaging in a separate decision-making process for those possible violations.

A. Investigation

The written notice described in Section XIII(A) will identify the appointed Investigator. Either Party may object to the Investigator on the grounds of conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, by submitting an objection to the Title IX Coordinator in writing within three (3) calendar days of receipt of the issuance of the written notice. The Title IX Coordinator, in their sole discretion, shall determine whether a different Investigator should be appointed.

The Investigator will investigate the allegations in the Formal Complaint. They are responsible for interviewing the Parties and witnesses and gathering relevant inculpatory and exculpatory evidence. The Investigator may not access, consider, disclose or otherwise use records that are made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional in connection with the provision of treatment to the Complainant or Respondent, unless the Investigator obtains the Complainant's or Respondent's, as appropriate, voluntary written consent to do so.

All Parties will have an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, for the Investigator. Parties will be provided with written notice of the date, time, location, participants, and purpose of all investigative interviews in which they are expected to participate. Parties may be accompanied by an Advisor of their choice at any investigative interview, as described in Section XIII(D).

Investigations are completed expeditiously, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law enforcement involvement, etc.

The University 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.

B. Investigation Process Delays and Interactions with Law Enforcement

The University 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, and/or health conditions.

The University will communicate the anticipated duration of the delay and reason to the parties in writing and provide the parties with status updates if necessary. The University will promptly resume its investigation and Formal Resolution Process as soon as feasible. During such a delay, the University will implement supportive measures as deemed appropriate.

The University 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.

C. Witness Role and Participation in the Investigation

Witnesses (as distinguished from the parties) who are employees of the University are required to cooperate with and participate in the University's investigation and Formal Resolution Process. Student witnesses and witnesses from outside the University community are encouraged to cooperate with university investigations and to share what they know about a complaint.

D. Investigation Report

The Investigator will prepare an investigation report summarizing all relevant evidence. The report will exclude all non-relevant evidence, as well as any evidence not subject to disclosure for reasons set forth herein (*e.g.*, medical records regarding which the Party has not authorized disclosure).

Prior to completing the investigation report, the Investigator will send to both Complainant and Respondent, and their Advisors, if any, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, regardless of whether it is anticipated that the evidence will be used at the hearing or in connection with any decision on responsibility. The Parties are strictly prohibited from disclosing or disseminating the evidence to any third parties and from using it for purposes other than carrying out the Formal Resolution Process. Complainant and Respondent will have ten (10) calendar days to provide a written response concerning the evidence to the Investigator, including identifying additional evidence for the Investigator's consideration prior to completing the investigation report. The response must be by the Party, not the Party's Advisor. A Party's response will be shared with the other Party.

After receipt of the Parties' responses concerning the evidence and at least ten (10) calendar days before the hearing, the Investigator will provide the Complainant and Respondent, and their Advisors, if any, a copy of the investigation report. The Complainant and Respondent may, but are not required to, provide written responses to the investigation report. Any response must be by the Party, not the Party's Advisor. A Party's response will be shared with the other party.

E. Hearing Notice

After the investigation report has been provided to the Parties and their Advisors, if any, and not fewer than 14 calendar days before the hearing, the Title IX Coordinator will issue a Hearing Notice via email advising the Parties of the following:

- The date, time and location of the Hearing;
- The specific charges of Prohibited Conduct subject to disposition at the Hearing and a brief description of the conduct resulting in the charges;
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence; Notification that the parties must have the assistance of an advisor for the purpose of cross examination;
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance and/or interpretations services that may be needed at the hearing at least 7 business days prior to the hearing;
- The individual to serve as the Decision-Maker; and

The Hearing will take place with parties located in separate rooms with technology enabling the parties to simultaneously see and hear the party/witness answering questions.

Any Party may object to the Hearing date or challenge the appointment of the Decision-Maker for bias or conflict of interest by submitting a written objection to the Title IX Coordinator via email within three (3) calendar days of the Title IX Coordinator issuing the Hearing Notice. The Title IX Coordinator, in their sole discretion, shall determine whether the Decision-Maker should be removed and/or the Hearing rescheduled. Once the Decision-Maker is confirmed, the Title IX Coordinator will provide the Decision-Maker with a copy of the investigation report.

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 semester will typically be held immediately after the end of the semester or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the timeline goal for resolution.

F. Appointing a Decision-Maker

The University will designate a single Decision-maker, at the discretion of the Title IX Coordinator.

The Decision-maker(s) will not have had any previous involvement with the complaint. The Title IX Coordinator may elect to have an alternate Decision-Maker sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators may be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Title IX Coordinator or designee.

G. Pre-Hearing Meeting

The Decision-Maker or designee may convene pre-hearing meeting(s) with the parties and/or their Advisors. Parties are not required to but encouraged to attend.

At each pre-hearing meeting with a party and/or their Advisor, the Title IX Coordinator or designee will review the hearing procedure including test virtual technology for comfortability and answer any questions parties may have about the hearing procedure.

H. Hearing

Hearings are governed by the procedures set forth below. The formal Rules of Evidence that may apply to any courtroom proceeding do not apply to Hearings conducted under this Policy.

The only individuals who may appear at a Hearing are the Complainant and Advisor, Respondent and Advisor, and witnesses called by the Decision-Maker. The Parties and their Advisors may be present throughout the Hearing, with the exception of any recesses for which they are excused by the Decision-Maker. Witnesses are permitted to be present only when providing testimony. The Investigator and Title IX Coordinator may be present throughout the Hearing, as may other Susquehanna University representatives at the discretion of the Decision-Maker. If a Party fails to attend a hearing, the hearing may be held in the Party's absence, at the discretion of the Decision-Maker.

- i. **Witnesses:** At least 7 calendar days before the Hearing, the Decision-Maker will advise the Parties which witnesses will be requested to provide testimony at the Hearing. No later than 2 calendar days after such notice, the Parties may request that additional witnesses be requested to be present at the Hearing. The request must be submitted to the Decision-Maker in writing, including a brief description of why the information is relevant to the determination of responsibility. Whether or not to approve such request as potentially providing relevant information shall be in the sole discretion of the Decision-Maker, who will advise the requesting Party of the final decision. If the request is approved, the Decision-Maker will advise the other Party as well.
- ii. **Documents:** All documentary evidence provided to the parties under Section XV(D) will be made available at the hearing, as well as all evidence produced by the Parties in their response. The availability of such evidence does not suggest a determination on relevance, which shall be made by the Decision-Maker. No party or witness may introduce relevant evidence at the hearing if it was not first vetted by investigators during the investigation phase of the resolution process unless the Parties and Decision-Maker agree that it can be raised at the hearing. The Decision-Maker may

- re-open the investigation to review and vet such evidence before considering it at the hearing.
- iii. **Relevance:** The Decision-Maker is responsible for making all determinations of relevance as to witnesses, questions and documentary evidence presented at the Hearing. For purposes of this Policy, “relevant” means that the evidence is probative of any material fact. Evidence that is not relevant will be excluded at the hearing and may not form the basis for any decision by the Decision-Maker. Evidence that is duplicative of evidence already in the hearing record may be deemed not relevant. Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct or if the questions and evidence concern a specific incident of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
 - iv. **Standard of Proof:** The Decision-Maker will make decisions on responsibility using a preponderance of evidence standard of proof. *Preponderance of Evidence* means that the evidence demonstrates that the outcome is more likely than not.
 - v. **Advisors at Hearings:** The parties may be accompanied by their Advisor at the Hearing. As discussed in Section XIII(D), the Advisor may not address the Title IX Coordinator, Investigator, Decision-Maker, other Advisors or any other individuals participating in the hearing. The only exception is with respect to cross-examination as discussed below. Like the parties, Advisors are required to adhere to the Rules of Decorum applicable to Hearings, as outlined below. An Advisor who fails to do so may, at the sole discretion of the Decision-Maker, be required to leave the Hearing. The parties shall inform the Title IX Coordinator whether they will be accompanied at the Hearing by their Advisor of choice by no later than 7 calendar days before the Hearing. If a party has not identified an Advisor, Susquehanna University will provide one for the sole purpose of conducting cross-examination as discussed below. The Parties may not conduct cross-examination themselves; cross-examination must be performed by an Advisor. If an Advisor is required to leave a Hearing for failure to adhere to the Rules of Decorum or for any other reason, the Decision-Maker shall recess the hearing until Susquehanna University appoints an Advisor for purposes of cross-examination. Advisors provided by Susquehanna University will be professional staff with an understanding of the purpose of cross-examination and ongoing training.
 - vi. **Hearing Procedures:** The procedures here provide the general framework for any hearing. The Title IX Coordinator or Decision-Maker may alter certain procedures as deemed appropriate in their sole discretion to aid in the equitable resolution of the matter.
 - 3. **Recording:** The Hearing will occur virtually and it will be recorded using audiovisual technology. Recesses taken or approved by the Decision-Maker, including for the Decision-Maker to consult with the Title IX Coordinator, Investigator or any other Susquehanna University representative, will not be recorded.

4. Opening Statements: Each Party will have the opportunity to make a brief opening statement. The Parties will make any statements themselves, not through their Advisor.
 5. Parties: Generally, the Decision-Maker will hear from the Complainant first, followed by the Respondent. Each Party will have the opportunity to provide relevant evidence to the Decision-Maker. The Decision-Maker will ask relevant follow-up questions of each party. Each Party's Advisor will have the opportunity to ask cross-examination questions of the other Party. Advisors are reminded of the importance of adhering to the Rules of Decorum in cross-examining the Parties and any witnesses. The Decision-Maker cannot draw an inference regarding responsibility based solely on a Party's absence from the Hearing or refusal to answer questions. With respect to cross-examination, Advisors are limited to asking only relevant questions. The Decision-Maker will determine whether questions are relevant prior to the Party answering the question. If the question is deemed not relevant, the Decision-Maker will provide a brief explanation and the question will be precluded. The Decision-Maker's decision is not subject to challenge or objection during the Hearing.
 6. Witnesses: A similar process and the same rules that apply to Parties will apply to witness statements. Like the Parties, any witness may appear remotely, with technology allowing the Hearing participants to simultaneously see and hear the witness. The Decision-Maker cannot draw an inference regarding responsibility based solely on a witness's absence from the Hearing or refusal to answer questions. The Investigator may be called as a witness. At the Decision-Maker's discretion, the Investigator may be asked to testify before the Parties to facilitate an efficient presentation of evidence.
 7. Closing Statement: Each Party will have the opportunity to make a brief closing statement. The Parties will make any statements themselves, not through their Advisor.
- vii. **Rules of Decorum**: The following Rules of Decorum apply to parties, Advisors and witnesses participating in any part of the formal or informal resolution process. Individuals failing to follow the Rules of Decorum may be directed to leave the meeting, interview, proceeding or hearing, at the Title IX Coordinator, Investigator, or Decision-Maker's sole discretion. Although the Title IX Coordinator, Investigator, and Decision-Maker may provide warnings or reminders of the Rules of Decorum before such removal, a pre-removal warning or reminder will not necessarily be provided depending on the nature of the conduct in question. A full list of Rules of Decorum will be reviewed with all Parties and advisors prior to any interviews, proceedings, and/or hearings; participants will be asked to affirm their intention to follow the rules of decorum.
- Advisors are present during interviews and hearings primarily to assist the party being interviewed. The interviewed party is responsible for presenting their own information. Advisors are not typically permitted to speak for a party and do not have an active role during any meetings or interviews except to advise their advisee.

- Parties are required to sign a privacy release form that permits their Advisor to have copies of their records pertinent to the complaint.
- Advisors are required to sign the University's non-disclosure agreement before evidence disclosed at the hearing any can be shared with them regarding the complaint.
- Advisors may not act abusively or disrespectfully toward any University personnel during the Title IX process. The advisor may not yell, scream, badger, or physically invade a Title IX employee's personal space.
- An Advisor may be removed or replaced if their presence is disruptive, obstructive, or unreasonably interferes with the University's ability to address the complaint. In such a case, the Complainant or Respondent may seek another Advisor.
- Advisors may take no action during the interview or hearing that a reasonable person would view as intended to intimidate a party, witness, or official into not participating in the process or meaningfully modifying their participation in the process. This behavior may also be a form of retaliation.
- The University will record hearing proceedings and make available all investigation interviews and hearing recordings or transcripts. Parties are not permitted to record (including audio and/or video) any meeting, interview, or hearing without express written permission from the Title IX Coordinator.
- The Advisor may not use profanity or make irrelevant ad hominem attacks upon a party or witness.
 - Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
- The Advisor may not ask repetitive questions or questions that will elicit an answer that is repetitive. This includes questions that have already been asked by the Decision-Maker or an Advisor during cross-examination.
 - When the Decision-Maker determines that a question is duplicative or is otherwise not relevant, the Advisor must move on to another question.
- Correctly identify all parties by their identified pronouns.

I. Hearing Outcome Letter

Within 7 calendar days of the conclusion of the Hearing, the Decision-Maker will provide the Hearing Outcome Letter to the Title IX Coordinator who will issue the Hearing Outcome Letter to the Parties via Susquehanna University email.

The Hearing Outcome Letter will include:

- A description of the allegations that lead to the Hearing, as potentially constituting Prohibited Conduct.
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination.
- A statement of factual findings supporting the determination.
- A statement of the conclusions regarding the application of this Policy to the facts.
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.

- An explanation of the disciplinary sanctions imposed on the Respondent, if any.
- A statement of whether remedies designed to restore or preserve equal access to Susquehanna University education program or activity will be provided to the Complainant. Specific remedies will be identified in the Hearing Outcome Letter only to the extent those remedies directly affect the Respondent. The Title IX Coordinator is responsible for implementing such remedies.
- The procedures and permissible bases for the Complainant and Respondent to appeal.

The Hearing Outcome becomes final following the determination of the appeals, if any, or upon the date following the deadline for filing an appeal, if no appeal is pursued. No further appeals of any kind are permitted.

J. Sanctions and Remedies

1. Sanctions

All sanctioning determinations are made by the Decision-Maker. Factors considered when determining a sanction/responsive action may include, but are not limited to:

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

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.

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.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a grievance process at any time, and/or referring that information to another process for resolution.

Primary Conduct Sanctions for Students and Student Organizations include:

Disciplinary Reprimand: a written reprimand for violation of specified regulations, including a warning that continuation or repetition of prohibited conduct may be cause for additional disciplinary action, including disciplinary probation.

Disciplinary Probation: a trial period during which a student / organization must behave in a manner acceptable to the University. This period can include exclusion from participation in privileged or co-curricular institutional activities for a specified period of

time. Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation, or any other violation of this Policy or the Code of Student Conduct during the period of probation, will normally result in suspension or expulsion from the university. Under the status of disciplinary probation, a student is encouraged to seek advice and counsel from appropriate university officials. Disciplinary probation status may also affect qualifications for some awards, prizes or financial aid, particularly those stipulating conduct acceptable to the university. Disciplinary Probation can affect a student's ability to apply for or participate in GO Programs.

Disciplinary Deferred Suspension: The sanction of disciplinary suspension may be placed in deferred status for a limited period of time. During this period of time, the student is on notice that any further violations of the Code of Student Conduct will result in the suspension that was originally defined becoming effective immediately without further review. Disciplinary Deferred Suspension may not be imposed for longer than one regular semester. If this sanction is imposed during a semester, it may be imposed for the remainder of that semester and one additional semester.

Disciplinary Suspension: temporary separation from university premises, and other privileges or activities, as set forth in the suspension notice. Students/organizations who are suspended are not permitted to participate in any University activities, academic or non-academic, during the suspension timeframe. They may not take part in any official exercise, including commencement. Suspended students are not allowed on Susquehanna University's premises during their suspension unless prior approval has been granted by the Vice President for Student Life & Dean of Students. Any request for the privilege of visiting Susquehanna during the suspension must be received in writing at least seven business days prior to the requested date by the Dean of Students. It should be understood that the submission of a request does not guarantee approval. The Dean may require the student requesting the privilege meet prior to the date. Decisions regarding the request will be communicated to the student and appropriate university staff.

Expulsion: permanent termination of student / organizational status and exclusion from university premises, privileges and activities including, but not limited to: receipt of Susquehanna University degree, registration, class attendance, residence in university-owned housing and use of university facilities. A student/organization who has been expelled is not eligible for readmission/re-establishment. Students expelled from Susquehanna University are not allowed on Susquehanna University's premises and will receive a No Trespass Order from the Office of Campus Safety. Expulsion will be kept on file in the Student Life Office, will remain in the student's conduct record permanently, and will be reflected on transcripts.

In addition to the above sanctions, students may also be assigned additional secondary sanctions.

Secondary Conduct Sanctions:

Restriction or Revocation of Privileges: the determination to withdraw a privilege, use of a service, participation in a program, event or activity for a specific period of time. The loss of privilege may prohibit a student or student organization from being released to live off-campus, or from participating in off-campus study (GO Program), co-curricular or athletic activities where the Individual(s) represents the university. Restrictions include, but are not limited to, registering or taking part in organizational or university social activities, the use of a particular university facility, guest privileges or parking privileges.

Restitution: repayment to the university or to an affected party for damages resulting from a violation of this code. Restitution can occur at any level.

Educational Sanctions: In cases where it is appropriate, a Respondent may be required to participate in and/or complete educational sanctions to help prevent future instances of prohibited conduct. This can include online modules and/or in-person meetings with an appropriate facilitator.

Additional Sanctions: Additional sanctions may be imposed. Service, research projects or educational programs or activities, including but not limited to, an educational seminar, a treatment program for alcohol or drug abuse or psychological assessments may also be assigned.

Parents may be notified to the extent permitted by law. (See the Parental Notification Policy under the Additional Campus Policies section of this Student Handbook.)

Sanctions for Employees

Sanctions include but are not limited to written warning(s), suspension, change in duties, workplace changes or termination as listed in the staff Disciplinary Actions Policy and Faculty Handbook.

2. Failure To Comply with Sanctions

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

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

3. Remedies

The Title IX Coordinator is responsible for the implementation of remedies designed to address safety, prevent recurrence, and restore or preserve equal access to Susquehanna University education program or activity. While remedies might constitute Supportive

Measures, they also might be in the form of Sanctions where there has been a finding of responsibility.

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

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

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

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

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

K. Appeals

Either Party may appeal a determination of responsibility (or non-responsibility) as set forth in the Hearing Outcome by submitting a written appeal to the Title IX Coordinator by email within 5 business days of the Decision-Maker's issues of the Hearing Outcome Letter. The appeal must be in writing and clearly explain the basis for the appeal. If the appeal is from the outcome of a Hearing, the Parties shall have access to the record of the Hearing to prepare their appeal on such terms as the Title IX Coordinator provides.

No Appeal Decision-maker(s) will have been previously involved in the Formal Resolution Process for the complaint, including in any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-Maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing). This 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.

Appeals may be based on only one of the following:

- A procedural irregularity that affected the outcome of the matter;
- The existence of new evidence that was not reasonably available at the time of the Hearing that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.

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 Appeal Decision-Maker, and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-Maker will notify all parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker(s). Upon receipt / review of the appeal by the Appeal Decision-Maker, or the Title IX Coordinator will notify the other Party that the appeal has been filed, permitting the party 5 days to provide a response, and providing the parties with the identity of the Appeal Decision-Maker who will determine the matter. The Party's response will be provided to the appealing party, but no further exchange of positions is permitted.

The Parties may challenge the appointment of the Appeal Decision-Maker for bias or conflict of interest by submitting a written objection to the Title IX Coordinator via email within 3 calendar days of the Title IX Coordinator issuing the notice. The Title IX Coordinator, in their sole discretion, shall determine whether a new Appeal Decision-Maker should be identified.

The Title IX Coordinator will forward the appeal and the other Party's response to the Appeal Decision-Maker. The Appeal Decision-Maker will evaluate the appeal on the written record and recording of the Hearing, and may seek input from the Title IX Coordinator, Investigator and/or Decision-Maker as deemed appropriate in the Appeal Decision-Maker's sole discretion.

For appeals from a Hearing Outcome, the Appeal Decision-Maker will issue a written Notice of Appeal Outcome, delivered simultaneously to all parties within ten business days of the Appeal Decision-Maker's receipt of the appeal material. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

The Appeal Decision-Maker also has the ability to uphold the decision, send it back for a new hearing in front of the same Decision-Maker, send it back for a new hearing with a different Decision-Maker or reach a different outcome.

Any sanctions imposed as a result of the hearing are stayed (i.e.: not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then the emergency removal procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within 48 hours of implementation.

As discussed in Section XIII(B), appeals may also be based on the dismissal of a Formal Complaint alleging Title IX Sexual Harassment.

For appeals from a Dismissal in Section XIII(B), the Appeal Decision-Maker will typically issue a written decision on the appeal, including the result and a brief rationale, within 10 business days of the Decision-Maker's receipt of the appeal materials.

The Appeal Decision-Maker's decision is final. No further appeals are permitted.

XVI. RECORDKEEPING

Susquehanna University will retain records created in connection with a Formal Complaint for seven (7) years. Such records include those relating to any Informal Resolution, the investigation, any determination regarding responsibility (including any audio or audiovisual recording or transcript), any disciplinary sanction imposed, any appeal, and any remedies provided to the Complainant designed to restore or preserve equal access to Susquehanna University education program or activity.

Susquehanna University will also document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the education program or activity. If Susquehanna University provides no Supportive Measures to the Complainant, it will additionally document why such a response was not clearly unreasonable in light of all the known circumstances.

The University will also maintain all records in accordance with state and federal law.

XVII. TRAINING

Any individual serving as Susquehanna University Title IX Coordinator, Investigator, Informal Resolution Facilitator, Advisor of Choice, Decision-Maker or Appeal's Decision-Maker will receive training on this Policy, the scope of Susquehanna University education program or activity, how to conduct an investigation and Formal Resolution Processes (including Hearings, Appeals and Informal Resolution, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias. Further, they will receive training on questions of relevance, and on preparing an Investigation Report, Hearing Outcome Letter or Appeal decision, as appropriate. These records will be maintained for at least seven years and be made publicly available on the University's website.

A. Prevention and Education

Interpersonal violence prevention and education cannot exist in a void. How we develop and construct our social lives including our norms, beliefs, expectations, boundaries, and communication skills all affect and intertwine with our culture's understanding of sexual misconduct and gender-based violence. In order to dismantle these scripts our approach must be multi-faceted.

By understanding the culture, we aim to meet our campus community where they are. We offer an array of prevention programming to engage students, faculty, and staff to examine their lives and increase their understanding of accountability and care for others. The University's educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for the campus community (students and employees) that:

- Identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct;
- Defines domestic violence, dating violence, sexual assault, and stalking including how those terms are defined in the Commonwealth of Pennsylvania;
- Defines what behavior and actions constitute consent to sexual activity in the Commonwealth of Pennsylvania;
- Provides safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than the bystander;
- Provides information on risk reduction ¹⁶so that students and employees may recognize warning signs of abusive behavior and how to minimize the risk of potential attacks.

All of Susquehanna University athletes and first year students receive preventative education programming. A list of our primary prevention programs and awareness programs can be found here: <https://www.susqu.edu/campus-life/student-safety/prevention>

B. Employee Training

As a result of Act 104 from November 17, 2010 from the Department of Education, which added Article XX-G, "Sexual Violence Education at Institutions for Higher Education" to the Public School Code, as well as the Violence Against Women Reauthorization Act of 2013, the University offers mandatory educational programs for all employees. These programs include, but are not limited to the following topics:

- Discussion of sexual misconduct and gender-based violence
- Discussion of consent

¹⁶ Risk reduction programming is performed to help students build the capacity to recognize potentially harmful situations.

- Discussion of drug and alcohol-facilitated sexual misconduct and gender-based violence
- Information on where/how to get assistance, including the importance of medical treatment and evidence collection, and how to report sexual violence to campus authorities or local law enforcement
- An explanation of the definitions of sexual misconduct and gender-based violence
- Safe and positive options for bystander intervention
- Information on recognizing warning signs of abusive behaviors
- Procedures for pursuing institutional disciplinary action in cases of alleged sexual misconduct and gender-based violence
- Information about how the University works to protect the confidentiality of students and employees;
- Explanation of available on and off-campus resources for students, faculty, and staff

C. Public Awareness Events

The University recognizes, along with the Office of Civil Rights (OCR), that public awareness events and education programs are best served by a higher level of confidentiality. The University wants students to feel free to participate in preventative education programs and access resources. Therefore, public awareness events such as “Take Back the Night” or other forums which students disclose experiences of sexual misconduct and gender-based violence are not considered notice to the University for the purpose of triggering an individual investigation unless the individual initiates a complaint.

Our full prevention policy can be found in the Student Handbook.

XVIII. SUSQUEHANNA UNIVERSITY AND COMMUNITY RESOURCES

A. Off Campus Medical Resources

The nearest hospital to campus is Evangelical Community Hospital. An advocate from Transitions of PA can be available to transport a Complainant to the hospital and/or meet them at the hospital. Evangelical Community Hospital can provide many critical services including:

- Physical Exam
- Emergency Contraception
- STD/HIV Medications
- Forensic Exam (*A forensic exam, completed by a medical practitioner, is the process through which physical evidence is collected and may include a rape kit. Physical evidence can include photo documentation of injuries, collection of fluids (blood, semen, urine, saliva) and other identifiable objects (hair, clothing with potential DNA)). *More information on preserving evidence is provided below after the medical services contact information.*

Contact information is as follows:

Evangelical Community Hospital, One Hospital Drive, Lewisburg, PA | 570-522-2770

Please note that under Pennsylvania law when a forensic rape exam is completed, a medical provider is required to notify law enforcement to retrieve the exam for safekeeping. Although the medical provider will provide information to law enforcement, the Complainant is not required to speak with a law enforcement officer at the hospital. Additionally, they can decide on the extent of their participation in a criminal prosecution.

B. Off Campus Counselors and Advocates

Off campus counselors and advocates and health care providers will also generally maintain confidentiality and not share information with the University unless the individual requests the disclosure and signs a consent or waiver form. The following off campus resources are available:

- Transitions of PA, 120 S. 3rd St. Lewisburg, PA | 1-800-850-7948 (24/7)
- Other local counseling resources can be found on the Counseling and Psychological Services's website:
<https://www.susqu.edu/campus-life/student-and-campus-services/counseling-services>

C. Off Campus Legal Services

Off campus free legal services are available near the University. Legal service providers will also generally maintain confidentiality and not share information with the University unless the individual requests the disclosure and signs a consent or waiver form. The following off campus resources are available:

- Transitions of PA, 120 S. 3rd St. Lewisburg, PA | 1-800-850-7948 (24/7)
- North Penn Legal Services, 133 N 2nd St. Sunbury, PA 17801 | 570-286-5687
- Other local free legal resources can be found on the American Bar Association's website:
https://www.americanbar.org/groups/legal_services/flh-home/flh-free-legal-help/

D. Off Campus Visa/Immigration Services

Off campus visa and immigration services are available. Immigration service providers will generally maintain confidentiality and not share information with the University unless the individual requests the disclosure and signs a consent or waiver form. The following off campus resources are available:

- Immigration Support Service, 2215 Millennium Way, Enola, PA | 1-800-437-7313
- Find your local embassy at the nearest location: <https://www.usembassy.gov>

E. Off Campus Police Services

Off campus police services are available from the local borough and state police.

You have the option to report to, or decline to report to, the University and local law enforcement: Although the University strongly encourages prompt reporting of conduct that may violate this Policy, individuals have the option of reporting to (a) local law enforcement; (b) the University, including Campus Safety; (c) both (a) and (b); or (d) none of the above. **This means that individuals have the right to decline to notify the University or law enforcement officials.**

If you want to notify local law enforcement, the University can assist you in notifying those authorities: If an individual wants to notify local law enforcement, then the University will, upon request, help that individual make a report to local law enforcement. **A report to local law enforcement is separate from a report to the University.**

How the University coordinates with local law enforcement if a report is made to both: University internal investigations and any disciplinary or remedial actions are independent of any civil, criminal or external administrative investigation. The University may pursue an investigation, take appropriate remedial action and/or impose disciplinary sanctions against a member of the University community at the same time the individual is facing criminal charges for the same incident, even if the criminal prosecution is pending, has been dismissed, or the charges have been reduced. In the case where an individual is pursuing civil or criminal investigation the Office of Campus Safety will work alongside Selinsgrove Borough Police Department and organize a co-occurring investigation.

- Selinsgrove Borough Police Department, 100 W. Pine St. Selinsgrove, PA | 570-374-8655 | 911 (24/7)
- PA State Police Department, 81 Lorian Drive Selinsgrove, PA | 570-374-8145 | 911 (24/7)