



**INTERIM
TITLE IX
SEXUAL
HARASSMENT
POLICY**

Princeton Theological Seminary

Academic Year 2020-2021



INTERIM TITLE IX & SEXUAL HARASSMENT POLICY
Academic year 2020-2021

Table of Contents

I.	OVERVIEW	2
II.	SEMINARY RESOURCES	2
III.	JURISDICTION	3
IV.	DEFINITION TO BE APPLIED:	3
V.	REPORTING A TITLE IX COMPLAINT:	6
VI.	RESOLUTION METHODS	10
VII.	RETALIATION	18
VIII.	TRAINING FOR INVESTIGATORS, HEARING OFFICERS, HEARING PANEL, APPEALS OFFICERS, TITLE IX COORODINATORS	19
IX.	RECORD RETENTION	19



INTERIM TITLE IX & SEXUAL HARASSMENT POLICY Academic year 2020-2021

I. OVERVIEW

“We will not overlook or tolerate harassment and discrimination. We pledge to speak up and speak out when any member of our community is belittled or when the behavior of a community member fails to reflect the reconciliation and acceptance we know in Christ. We ask God to grant us wisdom and courage to confront these situations and our own sins, and the failures of our community, in love and with a spirit of humility and compassion.” –[Living Together](#) at Princeton Theological Seminary

Princeton Theological Seminary is committed both to maintaining an educational, working, and living environment free from discrimination and harassment, and to fostering an environment where all individuals may pursue their studies, work, careers and social interactions without being subjected to sexual misconduct. These Title IX and sexual harassment policy and procedures are separate from the Seminary’s student disciplinary processes, by which the Seminary may bring a discipline charge against a student for violating Seminary policy according to the provisions found in the appropriate Handbooks.

Under the Department of Education’s [Title IX Regulations](#), published May 19, 2020, the following procedures will apply **only** to a narrow category of cases. Those cases meeting the definitions and jurisdictional elements below will follow the Interim Title IX & Sexual Harassment Policy. Those cases that do not fit within these new “Final Rule” [guidelines](#) will be handled through the Seminary’s *Sexual Misconduct Policy*; this is not to suggest that any case is more or less important, but instead will serve as a reflection of federal regulations that apply only to a specifically-identified set of cases.

II. SEMINARY RESOURCES

For more information on a non-confidential basis, contact the [Title IX Coordinator](#), Rev. Dr. Victor Aloyo, Jr. (victor.aloyo@ptsem.edu or titleix.coordinator@ptsem.edu) or the Deputy Title IX Coordinator, Rev. Dr. Catherine Cook Davis (catherine.davis@ptsem.edu).

For information from someone confidentially, contact Rev. Jan Ammon, Minister of the Chapel (janice.ammon@ptsem.edu) or Rev. Wanda Sevey (wanda.sevey@ptsem.edu), Director of the Office of Student Counseling or members of the staff in the Office of Student Counseling.

III. JURISDICTION

This procedure applies only to the following cases:

The Interim Title IX Sexual Harassment shall be defined broadly, according to the “Final Rule” to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect:

1. Unwelcome conduct that a reasonable person would determine is so *severe, pervasive, and objectively offensive* that it effectively denies a person equal access to the educational institution’s education program or activity. The Final Rule uses the Supreme Court’s Davis definition (severe, pervasive, and objectively offensive conduct that, effectively denies a person equal educational access) as one of the three categories of sexual harassment, so that where unwelcome sex-based conduct consists of speech or expressive conduct, schools balance Title IX enforcement with respect for free speech and academic freedom.; or,
2. The Final Rule prohibits sex-based misconduct in a manner consistent with the First Amendment. *Quid Pro Quo* harassment and [Clery Act/VAWA](#) offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because such misconduct is sufficiently serious to deprive a person of equal access. An example of *Quid Pro Quo*: An employee conditioning educational benefits on participation in unwelcome sexual conduct; or,
3. Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

IV. DEFINITION TO BE APPLIED:

Sexual Assault, which includes the following offenses;

Clery Act Definition of Sexual Assault:

Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.

1. **Rape:** Penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
2. **Fondling:** Touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental capacity.
3. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
4. **Statutory Rape:** Sexual intercourse with a person who is under the age of consent (18 years old).

Without Consent

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. These include:

1. **Rape** (except Statutory Rape)

The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

2. **Sodomy**

Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

3. **Sexual Assault With An Object**

To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

4. **Fondling**

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

Dating Violence

Violence, because of sex, committed by a person;—

1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence

Felony or misdemeanor crimes of violence committed, because of sex, by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated as a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of New Jersey.

Stalking

Engaging in a course of conduct, because of sex, directed at a specific person that would cause a reasonable person to experience either:

1. fear for his or her safety or the safety of others; or,
2. suffer substantial emotional distress.

Free Speech and Academic Freedom Protections

The Final Rule uses the Supreme Court's Title IX-specific definition rather than the Supreme Court's Title VII workplace standard (severe or pervasive conduct creating a hostile work environment). [First Amendment](#) concerns differ within educational environments and workplace environments, and the Title IX definition provides First Amendment protections appropriate for educational institutions where students are learning, and employees are teaching. Students, teachers, faculty, and others should enjoy free speech and academic freedom protections, even when speech or expression is offensive.

Education Program or Activity

The Title IX statute applies to persons *within* the United States with respect to education programs or activities that receive Federal financial assistance. Under the Final Rule, schools must respond when sexual harassment occurs in the school's education program or activity, against a person in the United States. The Title IX statute and existing regulations contain broad definitions of a school's "program or activity," the Department will continue to look to these definitions for the scope of a school's education program or activity.

Education program or activity includes locations, events, or circumstances over which the Seminary exercises substantial control over both the Respondent and the context in which the sexual harassment occurred, and, includes any building owned or controlled by a student organization that is officially recognized by the Seminary.

1. Nature of Complaint:

- A complaint of Dating Violence, Domestic Violence, Stalking, or Sexual Assault as defined above;
- A complaint of sexual harassment in which the harassment was so severe and pervasive and objectively offensive that it denied the Complainant equal access to an educational program or activity, or denied the employee the ability to continue their work at Princeton Theological Seminary;
- A complaint of *Quid Pro Quo* sexual harassment by an employee Respondent against a student.

If yes to one of the above, continue. If no, please see the applicable complaint or grievance procedure in the appropriate Handbook¹.

2. Location:

- The incident(s) occurred on the Seminary's campus, within the United States;

¹ See either the Student Handbook, Employee Handbook, or Faculty Handbook.

- The incident(s) were part of one of the Seminary’s programs or activities, such as part of a field trip, field education, within the United States.

If yes to one of the above, continue. If no, please see the Seminary’s Conduct Policy in the appropriate Handbook.

3. The Seminary has control over the Respondent, meaning the Respondent is a student (whether applicant, admitted, or currently enrolled), faculty or employee (applicant, hired but not yet working, or employed).

If yes to one of the above, continue. If no, please see the Seminary’s Conduct Policy in the appropriate Handbook

4. Complainant is a student (whether applicant, admitted, or currently enrolled), faculty or employee (applicant, hired but not yet working, or employed).

If yes to one of the above, continue. If no, please see the Seminary’s Conduct Policy in the appropriate Handbook.

V. REPORTING A TITLE IX COMPLAINT:

The Final Rule requires the Seminary to investigate sexual harassment allegations in any formal complaint, which can be filed by a Complainant or signed by the Title IX Coordinator. The Final Rule affirms that a Complainant’s wishes with respect to whether the school investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the Complainant is not clearly unreasonable in light of the known circumstances.

If the allegations in a formal complaint do not meet the definition of sexual harassment in the Final Rule, or did not occur in the Seminary’s education program or activity against a person in the United States, the Final Rule clarifies that the Seminary must dismiss such allegations for purposes of Title IX but may still address the allegations in any manner the Seminary deems appropriate under the Seminary’s Sexual Misconduct Policy.

1. Responsible Employees

The Seminary has defined all employees, both faculty (adjunct, Teaching Assistants), Field Education Supervisors, and professional staff, as “responsible employees” with the exception of the Minister of the Chapel, the Director of Student Counseling and staff serving in the Office of Student Counseling who are deemed as “confidential outlets.”

- If a “responsible employee” learns about sexual harassment, discrimination or sexual assault, you are expected to promptly contact the campus Title IX Coordinator, Dr. Victor Aloyo, Jr., (victor.aloyo@ptsem.edu, titleix.coordinator@ptsem.edu) or the Deputy Title IX Coordinator, Dr. Catherine Cook Davis (Catherine.davis@ptsem.edu). The information you share will be treated as confidentially as possible, but the Title IX Coordinator(s) may need to consult with other administrators; at times, the Title IX

Coordinator(s) will need to take action in the interest of safety. In planning any response, the wishes of the Complainant are given full consideration.

- All concerning and disruptive behaviors must be timely referred to the Title IX Coordinator in person, by phone, or by using the online [reporting forms](#).
- According to the [Office of Civil Rights of the Department of Education](#) when referring sexual harassment or discrimination or sexual assault, the Seminary cannot omit personally identifiable information (the name of the victim, the name of the accused individual, and other identifying details about witnesses, location, etc.).
- Subsequent to an initial referral, campus officials may need additional information in order to fulfill the Seminary's obligations under Title IX. In taking these subsequent actions, the Seminary will always be guided by the goals of empowering the victim and allowing the victim to retain as much control over the process as possible, but no employee other than the Office of Student Counseling and Minister of the Chapel can or should promise confidentiality with the appropriate proviso as noted above.

A Complainant may file a formal complaint at any time by using the form provided [here](#). For a hard copy of the Reporting Form contact titleix.coordinator@ptsem.edu. The complainant may return the form by dropping it off at the Title IX office, by email, or by mail. Upon receipt of a formal complaint, the Title IX Coordinator will reach out to the complainant to conduct an intake interview (*see Intake Interview*).

Policy Note in regards to Section V:

- In the event that the Complainant declines to participate in an intake interview, if the formal complaint contains an allegation meeting all of the jurisdictional elements of this policy, the formal complaint is signed, and the formal complaint requests an investigation, the Title IX Coordinator or appropriate designee will within 3 days of receiving the complaint, put the Respondent on notice of the allegation and commence the investigation process.

Any person may refer sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by submitting a [Reporting Form](#). The Title IX Coordinator or Deputy Title IX Coordinator will then reach out to the Complainant and schedule an intake interview.

2. Intake Interview

During the intake interview, the Title IX Coordinator or Deputy Title IX Coordinator will assess the potential Title IX complaint for all of the jurisdictional elements required to proceed under this policy within 3 days after the Intake Interview.

In the event the allegation involves a sexual assault, dating or domestic violence, or stalking, within Clery geography, the Title IX Coordinator will also notify the Clery Coordinator of the allegations.

The Title IX Coordinator or Deputy Title IX Coordinator will also explain to the Complainant the process for filing a formal complaint.

The Title IX Coordinator or Deputy Title IX Coordinator may also offer the Complainant Supportive Measures designed to restore or preserve equal access to the Seminary's educational programs or activities, and will consider the Complainant's wishes with respect to these measures. These measures are available with, or without, the filing of a formal complaint. "Supportive Measures" may include, but are not limited to, measures that are not punitive to the Respondent, are non-disciplinary, and at no fee to the Complainant or the Respondent:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services,
- Mutual no-contact directives
- Changes in work or housing locations,
- Leaves of absence
- Increased security
- Monitoring of certain areas of the campus

Note: Any Supportive Measures put in place will be kept confidential, except to extent that doing so impairs the Seminary's ability to provide the supportive measures. For example, in order to effectuate a housing change, staff in the Housing Office shall be informed of the need to assist with a housing change as directed by the Title IX Coordinator, but will not be provided with any of the details of any complaint.

3. Notice to Respondent

Upon the filing of a Title IX Complaint, written notice shall be provided to the Respondent. Such notice shall include the following information:

- The specific allegation and the specific conduct that is alleged to have occurred
- The identity of the Complainant
- The date and location (if known) of the conduct that is alleged to have occurred
- A copy of this policy, which contains the process that will be followed, including an explanation that each party shall have the right to inspect and review all evidence (get language) prior to the completion of the investigation
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility
- An explanation that each party may be accompanied by an advisor of their choice, who may be a parent, friend, attorney, or union representative
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of seven (7) days notice
- The name and contact information for the assigned investigator
- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant.

- *The Seminary has a prohibition against providing false information as part of any investigation or adjudication process.*

Note: Should additional allegations be added at a later time, the Respondent will again be provided with a full written notice.

4. Emergency Removal Provisions

If the Seminary determines that the conduct, as alleged, poses a safety risk to one or more students, or to the Seminary's educational environment, the Seminary may instruct that the Respondent be suspended, on an interim basis, from the Seminary, from residence halls, or from specific programs or activities. Any such assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis. If the Seminary determines that an immediate physical threat to the health or safety of students or others justifies removal, then a Respondent may be suspended on an interim basis. The decision to do so will be provided to the Respondent in writing.

The Respondent shall have an opportunity to appeal the decision immediately following the removal. Any appeal should be directed to the Executive Vice President, who will decide the appeal in his or her sole discretion. The decision to place any Respondent on an interim suspension shall not be considered as evidence that any determination has been made regarding potential responsibility.

5. Standard of Evidence

The decision regarding a Respondent's responsibility will be determined by a preponderance of the evidence. This means that the Hearing Panel will decide whether it is "more likely than not," based upon all of the evidence, that the Respondent is responsible for the alleged violation(s).

6. Prohibition on False Evidence Provided During Title IX Process

Each party and every witness is expected to provide truthful information to the Investigator, Hearing Panel, and Appeals Officer. Knowing failure to provide truthful information is sanctionable conduct under this and other Seminary policies.

7. Mandatory Dismissal

At any time prior to the commencement of a Hearing, any case proceeding under this policy will be dismissed if it is determined that the conduct at issue does not meet the jurisdictional requirements of this policy. If the alleged conduct would, if true, support a finding that another Seminary policy has been violated, the Seminary may, in its sole authority, transfer the case to the appropriate office or committee for further handling under the appropriate policy.

8. Transfer of Cases, Sharing of Information

For any case brought under this policy, should the case be dismissed and then transferred to another office, the Seminary shall have the right to transfer all communications and information gathered to any other Seminary administrator who will be reviewing and/or handling the case.

9. No Conflict of Interest or Bias

Any individual carrying out this policy shall be free from any actual conflict of interest or bias that would impact the handling of this matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Deputy Title IX Coordinator, who will take the role of Acting Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue. Should any investigator have a conflict of interest, the investigator is to notify the Title IX Coordinator upon discovery of the conflict.

Each party may object to the Title IX Coordinator or Designated Investigator, Hearing Officer, or Appeals Officer, on the grounds of an actual bias or conflict of interest. If either of the parties objects, they must notify the Title IX Coordinator, in which case the Title IX Coordinator will evaluate whether the objection is substantiated. The party raising the objection will be notified in writing of the findings within two (2) business days. If it is determined that an actual bias or conflict of interest exists, the person who was the subject of the objection will be removed and replaced.

10. Presumption of Non-Responsibility

The decision to proceed with an investigation is not a determination that the respondent has engaged in the alleged conduct. Any Respondent is presumed not responsible for the conduct that is the subject of the investigation, unless and until a decision of responsibility has been made upon the completion of the adjudication process.

11. Advisor: All persons who are a Complainant or a Respondent are permitted to bring an Advisor of their own choosing to any meeting or interview to provide support. The advisor may be any person, including a family member or an attorney. The Advisor may accompany the student Party to any and all portions of the grievance process. Other than asking questions of the other Party, or of witnesses, at the hearing, the Advisor may not participate directly in, or interfere with, the proceedings. Although reasonable attempts will be made to schedule proceedings consistent with an Advisor's availability, the process will not be delayed to schedule the proceedings at the convenience of the Advisor. The Title IX Coordinator has the discretion to remove the Advisor from the proceedings if the Advisor interferes with the proceedings. For any Complainant or Respondent who does not have an advisor at the hearing, one shall be provided, at no charge, for the purpose of cross-examination of the other Party or witnesses.

12. Requests for Delays, and Extensions of Time

The Title IX Coordinator may extend any deadlines within this policy, for good cause shown and documented. The Complainant and Respondent will be notified in writing of any extension, the reasons for it, and projected new timelines.

VI. RESOLUTION METHODS

1. Alternative Resolution

The alternative resolution process will only be used at the request and agreement of **both** the Complainant and Respondent and under the direction of the Title IX Coordinator(s). In order for the Alternative Resolution Process to be appropriate **both** parties must have an understanding and agree on the necessary elements of the process. Both the Complainant and Respondent will

have to agree to the following terms should they wish to participate in the Alternative Resolution Process:

- Participation in this process is voluntary and either the Complainant or Respondent can choose to end the process at any time prior to signing the agreement;
- **Mediation, even if voluntary, will not be used in cases involving sexual assault;**
- Both the Complainant and Respondent must participate in individual conference meetings with appropriate staff to learn more about the resolution process prior to participating;
- The process can only be used once and will not be considered if requested by a repeat Respondent under the Interim Title IX & Sexual Harassment Policy;
- The Complainant and Respondent must agree to all recommendations laid out in the formal agreement or the case reverts back to investigation;
- Information documented during this process can be subpoenaed if a criminal investigation is initiated;
- Participation in this process does not constitute a responsible finding of a policy violation and therefore is not reflected on the Student's disciplinary record or Employee file;
- If the Respondent is documented and found responsible for any violations in the future this agreement can be used in the sanctioning phase; and
- The Respondent may be charged with *Failure to Comply with a Directive of a Seminary Official* under the respective Interim Policies for failure to meet the requirements laid out in the agreement.
- The Seminary reserves the right to suspend or terminate this resolution option at any time, prior to both parties formally agreeing to the terms in the contract, and revert back to investigation.

When the Complainant requests an Alternative Resolution, the Title IX Coordinator will provide the Complainant and Respondent written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred
- The identity of the Complainant
- The date and location (if known) of the conduct that is alleged to have occurred
- A copy of this policy, which contains the information about both the Alternative Resolution process as well as the formal complaint process
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility
- An explanation that each party may be accompanied by an advisor of their choice, who may be a parent, friend, attorney, or other representative
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of (3) three days notice
- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant
- An explanation of the consequences of participating in the Alternative Resolution process, including a summary of the records that will be maintained or could be shared if the parties elect an Alternative Resolution.

The Alternative Resolution process is generally expected to be completed within 30 days, and may be extended for good cause by the Title IX Coordinator. Both parties will be notified, in writing, of any extension and the reason for the extension.

The process can only be used once and will not be considered if requested by a repeat Respondent under the Interim Title IX & Sexual Harassment Policy.

Participation in an Alternative Resolution is voluntary, and both parties must agree, in writing. It remains within the discretion of the Title IX Coordinator(s) to determine that a report must proceed through Formal Complaint process in certain cases where the reported conduct, if true, presents a threat to the safety of the Seminary community.

If either party does not voluntarily agree in writing to pursue an Alternative Resolution, or if the Complainant, Respondent, or Title IX Coordinator, at any time, determines that an Alternative Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the Complainant and Respondent in writing that the complaint will proceed through Formal Resolution.

Once the final terms of an Alternative Resolution have been agreed upon by both parties, in writing, the matter shall be considered closed, and will not then proceed to a Formal Complaint process. Any resolution reached through an Alternative Resolution process will be confirmed in writing and provided to the parties within five (5) business days of reaching a resolution.

Records of any Alternative Resolution will be maintained and can be shared with other offices as appropriate.

This is a non-punitive process, which rather than focusing on whether a *Policy* violation occurred, focuses on identifying the incident that caused the harm and to whom, the needs of the person who was harmed, and how the person who caused harm can repair it. Should a Respondent agree to participate in this process and completes the agreement in good faith, no sanctions will be applied, nor will their participation be reflected on their disciplinary history through the Seminary. However, in the event that the Respondent signs the contract stating that they will participate in all educational items laid out in the agreement and fails to do so, the Respondent may be charged with *Failure to Comply with a Directive* under this Policy and may receive punitive sanctions as a result.

Allegations of *Quid Pro Quo* harassment of a student by an employee shall not be handled through the Alternative Resolution process, and instead only through the Formal Complaint process.

2. Investigation and Hearing Process:

The Investigation Process, up to evidence review, is generally expected to take 30 days, which may be extended for good cause by the Title IX Coordinator. Both parties shall be notified, in writing, of any extension granted and the reason for the extension.

The [External Investigators](#) will interview all Parties and relevant witnesses, and gather relevant documentary evidence provided by the Parties and any identified witnesses. Interviews may be conducted in person, or via video conference.

The Investigator(s) shall also prepare an Interview Summary of each interview. Within five (5) days, the Investigator(s) will share the Interview Summary with the interviewee. The interviewee will have three (3) days to correct or comment on any statements made in the Interview Summary. The deadline may be extended for good cause, upon request to the investigator. If the interviewee has no corrections to, or comments on, the Interview Summary, the interviewee will confirm in writing that the interviewee has reviewed and agrees that the Interview Summary is accurate. If the interviewee has corrections or comments to the Interview Summary, the interviewee may submit a written response within three (3) days reflecting any additions or changes which the interviewee believes are necessary to ensure the accuracy of the interviewee's statement. If no response is received from the interviewee by the deadline, their Interview Summary will be presumed to be accurate. In all instances where the Investigator includes the Interview Summary as an exhibit to a report, the Investigator(s) will either adjust the Interview Summary as may be appropriate, or include any response provided with the Investigation Report.

Each party shall be provided with an opportunity to offer relevant witnesses and evidence. The Investigator will consider all relevant evidence.

Any and all information for consideration by the Hearing Panel must be provided to the Investigator as part of the investigation process. Information that was not provided to the Investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to or available to the Parties at the time of the investigation. In the event that new evidence is provided at the hearing, either the Hearing Panel or Title IX Coordinator may send the case back to the Investigator.

Policy Notes regarding Investigation and Hearing Process:

- a) The Seminary will not restrict the ability of the parties to discuss the allegations or gather evidence.
- b) The Seminary must dismiss allegations of conduct that do not meet the Final Rule's definition of sexual harassment or did not occur in the Seminary's education program or activity against a person in the United States. Such dismissal is only for Title IX purposes and does not preclude the Seminary from addressing the conduct in any manner the Seminary deems appropriate.
- c) The Seminary may, in its discretion, dismiss a formal complaint or allegations therein if the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein, if the Respondent is no longer enrolled or employed by the Seminary, or if specific circumstances prevent the Seminary from gathering sufficient evidence to reach a determination. The Seminary must give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.

- d) The Final Rule protects the privacy of a party’s medical, psychological, and similar treatment records by stating that the Seminary cannot access or use such records unless the Seminary obtains the party’s voluntary, written consent to do so.

3. Evidence Review

At the conclusion of all interviews and fact gathering, and when the evidence has been gathered, the Investigator will provide each party the opportunity to review all of the evidence gathered that is directly related to the allegation(s). This shall include all evidence. Given the sensitive nature of the information provided, the information will be provided in a secure manner (e.g., by providing digital copies of the materials through a protected, “read-only” web portal). Neither the Complainant nor the Respondent (nor their advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this policy may be subject to discipline. Any advisor who fails to abide by this policy may be subject to discipline and/or may be excluded from further participation in the process.

Each party may respond to the evidence gathered. Each party shall have ten (10) days in which to respond to the evidence. Each may provide a response in writing, to the Investigator. The Investigator will incorporate any response provided by the Parties into the **Summary of Evidence Report**. Along with their response to the evidence, each Party may also submit a written request for additional investigation, such as a requests for a follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the investigator to pose to witnesses or to the other party. This response may include written, relevant questions that a party would like the Investigator to ask of any party or witness. If any of the questions posed will be excluded as not relevant, or not likely to lead to relevant information, the Investigator shall explain to the party who proposed the questions any decision to exclude a question as not relevant.

Upon receipt of each party’s response to the evidence reviewed, the Title IX Coordinator(s) will determine if any additional investigation is needed.

In addition, either party may offer new witnesses or other new evidence. The Investigator will take into account the responses provided, pose questions to parties or witnesses as appropriate, interview new witnesses, and accept new, relevant, evidence.

If new relevant evidence is provided by either party, or gathered by the Investigator, the newly-gathered evidence (including answers to clarifying questions) will be made available for review by each party. Each party shall have five (5) days in which to respond to the new evidence. Each may provide a response in writing, to the Investigator. The Investigator will incorporate any written response provided by the Parties into the Summary of Evidence Report.

Any evidence to be considered by the Hearing Panel must be provided to the Investigator. Information that was not provided to the Investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to, or available to, the Parties at the time of the investigation. Should new evidence be presented at

hearing, the Hearing Panel has the authority to send the matter back for further, limited, investigation.

4. Exclusion of Questions Regarding Complainant's Past Sexual Behavior, or Predisposition

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be asked, unless such questions and evidence about the Complainant's prior sexual behavior are offered for one of two reasons:

- (a) to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
- (b) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent are offered to prove consent.

5. Investigation Report

The Investigator shall then prepare a written report summarizing all of the relevant evidence gathered and all investigative steps taken to date. Each party shall be provided with a copy of the written report and shall have ten (10) days to provide a response. Upon receipt of any response(s), the Investigator shall then complete the Investigation Report, which shall include as an attachment all relevant evidence gathered during the investigation, as well as all interview notes and interview summaries, showing the original (as sent to each interviewee for review) and the revised version, after corrections or additions by each interviewee.

6. Conclusion of Investigation, Notice of Hearing

The Title IX Coordinator will review the final Investigation Report, with attachments. The Title IX Coordinator may require that the Investigator conduct additional investigation. Once the Investigation Report is final, it shall be provided through a protected, read-only, server, together with all attachments, to each Party.

At the same time, each party shall be provided with a Notice of Hearing, which shall include information regarding the date of the hearing, the identity of the Hearing Panel, and any deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Officer to ensure relevance. The hearing shall be scheduled no less than 10 days from the date of the Notice of Hearing.

Within three (3) days of receipt of the Notice of Hearing, either party may object to the Hearing Panel, on the basis of an actual bias or conflict of interest. Any objection is to be in writing, and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Hearing Officer and appoint another.

7. Advisor for Hearing: Each party is entitled to one Advisor at the hearing. The role of the Advisor is to ask questions of the other Party and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party shall be permitted to ask questions of the other Party, or of a witness. An advisor of the Seminary's choosing shall be provided for any party who does not have an advisor.

8. **Hearing:** Hearings may be by in person or via videoconferencing. Prior to the hearing, the Hearing Panel shall have received instruction regarding the operation of any audio-visual equipment for the hearing.

Each hearing shall be recorded. No other individual is permitted to record while the hearing is taking place. The recording is the property of the Seminary but shall be available for listening by contacting the Title VI/IX Officer.

The Complainant, Respondent, and the Hearing Panel all have the right to call witnesses. Witnesses must have information relevant to the incident. No party will be permitted to call as a witness anyone who was not interviewed by the Investigator as part of the Seminary's Investigation. Each party shall submit the names of witnesses they would like to call no less than *five (5)* days in advance.

The Hearing Panel shall have the authority to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing. Any such limitation shall be communicated to the parties no later than three (3) days before the hearing.

The hearing shall start with an overview of the hearing process from the Hearing Panel. The Hearing Panel will then pose questions to the Complainant. When the Hearing Panel has concluded, the Respondent's advisor will then pose questions to the Complainant. If the Hearing Panel has any additional questions, those will be posed by the Hearing Panel. If the Respondent's advisor has any follow-up questions for the Complainant, the advisor will ask those questions. The same process will then be followed for questions posed to the Hearing Panel, followed by questions from the Complainant's advisor to the Respondent. This process will then be followed for any witnesses who are to be interviewed.

The Hearing Panel may refuse to allow those questions that seek information that is not relevant under this Policy. The Hearing Panel is not required to provide a lengthy or complicated explanation, but is required only to explain the reason why a question is not relevant.

If either Party does not appear, their advisor will be present for the purpose of asking questions of the other party, or of witnesses.

During the hearing, if either party has any follow-up or clarifying questions for the other party, or for witnesses, at the hearing, the Hearing Panel will not consider any statement(s) of any Party or witness who does not appear at the hearing, and who is not cross-examined.

The Hearing Panel will then prepare a report. To the extent that credibility determination needs to be made, it shall not be based on a person's status as Complainant, Respondent, or Witness. The Hearing Panel's report shall be provided to the parties five (5) days after the hearing.

The Hearing Panel's report will include:

- The allegations
- Description of all procedural steps

Findings of fact
Conclusion of application of facts to the policy
Rationale for each allegation
Recommended Sanctions and Remedies
Procedure for appeal

The written decision shall not be redacted, and shall be sent simultaneously to each party.

9. Sanctions and Remedies

Upon conclusion of the adjudicating process, when there is a finding of responsibility, the Complainant will be offered such remedies designed to restore or preserve equal access to the Seminary's education program or activity. Some examples are, yet not limited to individualized supportive measures, tutoring, and counseling. The Title IX Coordinator will be responsible for communicating the remedies to the appropriate parties and will make sure that the implementation of the remedies are executed in a timely manner. The Seminary reserves the right to assess the sanctions or remedies based upon the decision of the Hearing Panel.

10. Appeals

Appeals may be filed by either party. Appeals shall be sent to the Seminary's Appeals Officer, Dr. Shane Berg, Executive Vice President or Dr. Shawn Oliver, Deputy Appeals Officer. When an appeal is filed, the other party shall be notified, in writing, within one business day, and shall then have five (5) days to respond to the appeal. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.

The appeals process is documentary only, and no hearing is held. Each party will be allowed to meet with the Appeals Officer.

The Appeals Officer(s) shall not have any actual conflict of interest or bias. Within three (3) days of receipt of the Hearing Panel's report at the conclusion of the hearing, either party may object to the Appeals Officer(s) on the basis of an actual bias or conflict of interest. Any objection is to be in writing, and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Appeals Officer and appoint another.

Appeals may be filed on the following grounds:

- ***Procedural Error:*** A procedural error occurred that significantly impacted the outcome of the investigation or hearing. A description of the error and its impact on the outcome of the case must be included in the written appeal; or
- ***New Evidence:*** New evidence or information has arisen that was not available or known to the party during the investigation or hearing, and that could significantly impact the findings. Information that was known to the Appellant during the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal; or
- Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

11. Outcome of Appeal

The written appeals decision shall be sent simultaneously to both parties. The Appeals Officer(s) will “issue a written determination of the appeal and the rationale for the result, or may request that the Title IX Coordinator take the following steps:

- Affirm the original finding and sanction;
- Remand the case back to the hearing board or a new hearing board to correct a procedural or factual defect; or
- Dismiss the case if there was a procedural or factual defect that cannot be remedied by remand.

The findings of the Appeals Officer is now final and there is no further appeal to any other Seminary personnel or entity.

12. Consolidation of Cases

In the event that the allegations under this policy involve allegations of a violation of a separate policy, whether Seminary Handbook, Faculty Handbook, or Staff Handbook, the Seminary shall have the right, within its sole discretion, to consolidate those other allegations within one investigation and/or hearing. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

VII. RETALIATION

The Final Rule expressly prohibits retaliation.

- Charging an individual with code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.
- The Seminary must keep confidential the identity of Complainants, Respondents, and Witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.
- Complaints alleging retaliation may be filed according to the Seminary’s prompt and equitable grievance procedures.
- The exercise of rights protected under the First Amendment does not constitute retaliation.
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

VIII. TRAINING FOR INVESTIGATORS, HEARING OFFICERS, HEARING PANEL, APPEALS OFFICERS, TITLE IX COORODINATORS

The Title IX Coordinator, Deputy Title IX Coordinator, Hearing Officers, and Appeals Officers must have had the following training prior to commencing any role in any case under this policy:

- The definition of sexual harassment under § 106.30(a)
- The scope of the Seminary's education program or activity as defined by the same regulations
- How to conduct investigations (not required for Hearings or Appeals Officers), hearings, appeals, and informal resolution processes
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias

Hearing Officers and Hearing Panel must have training on the following:

- The definition of sexual harassment under § 34 C.F.R. § 106.30(a) and the scope of the Seminary's education program or activity as defined by the same regulations
- How to conduct investigations (not required for Hearings or Appeals Officers), hearings, appeals, and informal resolution processes
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant per the regulations

Any individual who will be coordinating any hearing under this process must also have training on how to use any technology that will be used at a live hearing, such as recording equipment, or platforms designed to permit virtual attendance at a live hearing.

Investigators shall receive the following training:

- The regulations' definition of sexual harassment
- The scope of the Seminary's "education program or activity" as defined by the regulations
- How to conduct investigations, hearings, appeals, and informal resolution processes
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Issues of relevance
- How to create an investigative report that fairly summarizes relevant evidence
- For an overview of the Title IX Trainings & Resources visit [here](#).

IX. RECORD RETENTION

All records relating to any procedure or training carried out under this process shall be maintained for seven (7) years.