

# **LIBERTY UNIVERSITY SEXUAL MISCONDUCT POLICY**

## **1. INTRODUCTION**

Liberty University (“Liberty” or the “University”) is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of the University community. According to Liberty University’s Statement of Mission and Purpose, “[t]hrough its residential and online programs, services, facilities, and collaborations, the University educates men and women who will make important contributions to their workplaces and communities, follow their chosen vocations as callings to glorify God, and fulfill the Great Commission.” This Sexual Misconduct Policy (“Policy”) is a key component of effectuating the University’s mission consistent with the law. All members of the University community are responsible for understanding and following this Policy.

This Policy outlines Liberty’s community expectations to pursue a campus free from Sexual Misconduct, the steps for recourse for those individuals who have been subject to Sexual Misconduct, and the procedures for determining whether a violation of this Policy has occurred. The Policy applies to the following forms of sex discrimination, which are referred to collectively as “Sexual Misconduct”: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation. This Policy also applies to related misconduct, including Retaliation and Interference with Process, Complicity, and Attempt to Commit Prohibited Conduct. Collectively, Sexual Misconduct and these forms of related misconduct are referred to as “Prohibited Conduct”. In case of conflict between this Policy and another University policy, this Policy will govern.

Nothing in this Policy is intended to create a contract between Liberty University and any student, employee, independent contractor, vendor, or other individual or entity. Liberty University reserves its right to amend this Policy at any time for any reason.

## **2. NOTICE OF NON-DISCRIMINATION**

In accordance with applicable federal and state laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (“Title IX”), the Age Discrimination in Employment Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (“ADA”) and ADA Amendments, the University does not unlawfully discriminate on the basis of race, color, ancestry, religion, age, sex, national origin, pregnancy or childbirth, disability, military veteran status, or any other protected status under federal, state or local law applicable to the University, in its educational programs and activities. Liberty maintains its Christian mission and reserves its right to act in furtherance of its religious objectives. As a faith-based institution, the University is exempt from certain laws and regulations concerning discrimination.

Sex discrimination is prohibited by Title IX, a federal law that provides that: "No 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." The University is required by Title IX and its regulations not to engage in sex discrimination in its education program or activity, including admissions and employment. Sex discrimination is conduct based on an individual's sex that excludes an individual from

participation in, denies the individual the benefits of, or treats the individual differently in, the education program or activity. Sexual Misconduct is a form of sex discrimination.

The University will not tolerate Prohibited Conduct. The University will promptly and equitably respond to all Reports and Formal Complaints of Prohibited Conduct to take steps to eliminate the misconduct, prevent its recurrence, and address its effects on any individual where the law or Policy requires or allows, or the community in general, in accordance with this Policy. Inquiries or complaints about Title IX generally, sex discrimination, or the forms of Prohibited Conduct defined below may be directed to the University's Title IX Coordinator:

Interim Title IX Coordinator  
1971 University Blvd.  
Green Hall, Rm. 1845K  
Lynchburg, VA 24515  
Telephone: 434.592.4999  
Email: [oecc@liberty.edu](mailto:oecc@liberty.edu)

### 3. SCOPE OF POLICY

This Policy applies to all members of the Liberty University community, including students, faculty, administrators, trustees, volunteers, vendors, independent contractors, applicants for admission and employment, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the University or on University property. This Policy may also apply to individuals who interact with University community members under certain circumstances. All University community members are required to follow University policies and applicable local, state, and federal law.

This Policy applies to Prohibited Conduct committed by or against a University community member, including conduct occurring on-campus or on Liberty property, conduct that occurs at University-sanctioned events or programs that take place off campus, such as study abroad and internships, and off-campus conduct that may (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

This Policy applies to Title IX Sexual Harassment within the scope of Title IX, as well as other Prohibited Conduct committed by or against a University community member that does not fall within the scope of Title IX. More information about what falls within the scope of Title IX is provided in section 6 Prohibited Conduct below and more information about the process applicable to different types of Prohibited Conduct is provided in section 10 General Provisions for Complaint Resolution Process below.

This Policy applies regardless of the sexual orientation or gender identity of any of the parties. Although the University maintains its right to uphold and apply its religious beliefs concerning sexual orientation and gender identity, the University has no tolerance for any form of Prohibited Conduct committed against any individual, regardless of the individual's sexual orientation or

gender identity. Individuals are strongly encouraged to report all incidents of Prohibited Conduct, even when individuals are concerned they have engaged in conduct that may violate provisions of the Liberty Way (e.g., sexual activity). See the section 9.6 Amnesty below for more information.

#### **4. THE OFFICE OF EQUITY & COMPLIANCE**

The Office of Equity & Compliance (“OEC”), with executive oversight by the Executive Vice President of Inclusion, Diversity & Equity / Chief Diversity Officer, has primary responsibility for coordinating Liberty’s Title IX compliance efforts, including Liberty’s efforts to end Prohibited Conduct (including Sexual Misconduct), prevent its recurrence, and address its effects. The Associate Vice President of Equity & Compliance / Title IX Coordinator, who reports to the Executive Vice President of Inclusion, Diversity & Equity / Chief Diversity Officer, has been designated by the University to serve as the University’s Title IX Coordinator. The Title IX Coordinator is the designated person responsible for overseeing and monitoring Liberty’s overall compliance with Title IX-related policies and developments; the implementation and oversight of complaint resolution processes, including investigation and adjudication of Formal Complaints of Prohibited Conduct; the provision of educational materials and training for the campus community; and monitoring all other aspects of the University’s Title IX compliance. These responsibilities include, but are not limited to:

- Ensuring Liberty policies and procedures and relevant state and federal laws are followed;
- Informing any individual, including a Complainant, a Respondent or another individual, about the procedural options and processes used by Liberty and about resources available at Liberty and in the local community;
- Training and assisting Liberty employees regarding how to respond appropriately to a Report of Prohibited Conduct;
- Monitoring full compliance with all procedural requirements and time frames outlined in this Policy;
- Evaluating allegations of bias or conflict of interest relating to this Policy;
- Determining whether grounds for appeal under this Policy have been stated;
- Ensuring that appropriate training, prevention and education efforts, and relevant periodic reviews of the University’s climate and culture take place;
- Coordinating Liberty’s efforts to identify and address any patterns or systemic problems revealed by Reports and Formal Complaints;
- Recordkeeping of all incidents reported to the OEC or Title IX Coordinator;
- Complying with written notice requirements of the Violence Against Women Act; and
- Assisting in answering any other questions related to this Policy.

The Title IX Coordinator may delegate responsibilities under this Policy to designated University administrators and others who have appropriate training and / or experience, including other team members within OEC. When this Policy refers to actions of the Title IX Coordinator, those actions may be fulfilled by the Title IX Coordinator or a designee, including a Deputy Coordinator, an Investigator from OEC, or another appropriate designee with such delegated responsibilities. Members of the OEC team may also be called upon to investigate or adjudicate Formal Complaints of Prohibited Conduct, review appeals, and / or facilitate informal resolutions.

## Contact Information for Title IX Deputy Coordinators

Steve Ferro  
Director of Employee Relations  
Human Resources (“HR”)  
434.592.3340  
[hr@liberty.edu](mailto:hr@liberty.edu)

Erin Hagen  
Associate Athletics Director / Senior Woman Administrator  
Athletics Department  
434.592.4951  
[athletics@liberty.edu](mailto:athletics@liberty.edu)

Denny McHaney  
Executive Director of Disability Services  
Office of Disability Accommodations Support (“ODAS”)  
434.582.2159  
[odas@liberty.edu](mailto:odas@liberty.edu)

The University is committed to preventing Prohibited Conduct through regular and ongoing education and awareness programs. The University provides coordinated programming and training through multiple offices and departments, including the OEC, the Office of Equity & Inclusion, the Dean of Students Office, the Liberty University Police Department (“LUPD”), HR, the Provost’s Office, the Office of Community Life (“OCL”), and Student Counseling Services.

### 5. DEFINITIONS

#### 5.1 Complainant

Complainant refers to an individual alleged to be a victim of conduct that could violate this Policy. A Complainant is also a party.

#### 5.2 Respondent

Respondent refers to an individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy. A Respondent is also a party.

#### 5.3 Third-Party

Third-Party refers to an individual who is not a University student or employee (e.g., vendors, contractors, alumni, visitors, volunteers, etc.). A Third-Party may be a reporting party, a Complainant, a Respondent, or a Witness for purposes of this Policy.

#### **5.4 Witness**

Witness refers to a person who may have information relevant to a Report or Formal Complaint of conduct that could violation this Policy, including a person who may have observed the acts in question, who may be able to provide contextual information, or who may have other related information. A Witness is not party to the complaint resolution process and may be a student, an employee, or a Third-Party.

#### **5.5 Report**

A Report is an account of Prohibited Conduct that allegedly occurred that has been provided to the University by the Complainant, a Witness, or an anonymous source.

#### **5.6 Formal Complaint**

A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging a violation of this Policy and requesting that the University investigate the allegation of the Policy violation. A Formal Complaint begins the complaint resolution process as set forth in section 10 General Provisions for Complaint Resolution Process below.

#### **5.7 Sexual Misconduct**

Sexual Misconduct, as used in this Policy, includes the following forms of sex discrimination and related misconduct: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Stalking, Domestic Violence, Dating Violence,<sup>1</sup> and Sexual Exploitation. All Sexual Misconduct is Prohibited Conduct under this Policy.

### **6. PROHIBITED CONDUCT**

The University strictly prohibits the following offenses referred to as “Prohibited Conduct”:

#### **6.1 Title IX Sexual Harassment**

As used in this Policy, Title IX Sexual Harassment includes conduct based on sex that satisfies one or more of the following definitions, when the conduct occurs (1) in the University’s education program or activity and (2) against a person in the United States.

For the purposes of the Title IX Sexual Harassment definition, conduct is unwelcome when the individual did not request or invite the conduct, and regarded it as undesirable or offensive. The fact that an individual may have tolerated the conduct does not mean that they welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that they object, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one occasion does not

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<sup>1</sup> Some instances of Stalking, Domestic Violence, and Dating Violence may not be sexual in nature. For purposes of this Policy, the term “Sexual Misconduct” encompasses all instances of Stalking, Domestic Violence, and Dating Violence (as those terms are defined in this Policy), regardless of whether there is a sexual component to the behavior.

necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident.

At a minimum, Liberty's education program or activity includes all of the operations of the University, including (1) locations on campus or otherwise owned or controlled by the University, such as residence halls and learning spaces, (2) locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the alleged Sexual Misconduct occurred, such as University-sponsored off-campus activities, and (3) any building owned or controlled by a student organization that is officially recognized by the University. Whether alleged conduct occurred in the University's education program or activity is a fact-specific analysis.

#### **6.1.1 Title IX Quid Pro Quo Sexual Harassment**

Title IX Quid Pro Quo Sexual Harassment occurs when an employee of the University, including a student-employee, conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances; requests for sexual favors; sexually-motivated physical contact or other verbal, non-verbal, or physical conduct or communication of a sexual nature.

#### **6.1.2 Title IX Hostile Environment Sexual Harassment**

Title IX Hostile Environment Sexual Harassment is unwelcome conduct of a sexual nature or based on sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

For the purposes of the definition of Title IX Hostile Environment Sexual Harassment, reasonable person means a reasonable person in the shoes of the Complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

Multiple instances of the following conduct, or other unwelcome conduct based on sex, may constitute Title IX Hostile Environment Sexual Harassment:

- Unwelcome sexual flirtations, advances, or propositions;
- Requests for sexual favors;
- Punishing or threatening to punish a refusal to comply with a sexual-based request;
- Offering a benefit (such as a grade, promotion, or athletic participation) in exchange for sexual favors or other verbal or physical conduct of a sexual nature;
- Verbal abuse of a sexual nature, obscene language, gender- or sexually-oriented jokes, verbal commentary about an individual's body, sexual innuendo, and gossip about sexual relations;
- The display of derogatory or sexually suggestive posters, cartoons, drawings, or objects, or suggestive notes or letters or e-mails or text messages or in a public space;
- Visual conduct such as leering or making gestures;

- Sexually suggestive comments about an individual's body or body parts, or sexual degrading words to describe an individual;
- Unwanted kissing;
- Unwelcome touching of a sexual nature such as patting, pinching or brushing against another's body;
- Cyber or electronic harassment of a sexual nature or otherwise based on sex.

The circumstances that may be considered when determining whether conduct was so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity include, but are not limited to:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the victim's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct was merely a discourteous, rude, or insensitive statement;
- Whether the speech or conduct deserves the protection of academic freedom.

### **6.1.3 Sexual Assault, Domestic Violence, Dating Violence, and Stalking**

Title IX Sexual Harassment also includes Sexual Assault, Domestic Violence, Dating Violence, and Stalking, as those terms are defined below, when such conduct occurs (1) in the University's education program or activity and (2) against a person in the United States.

## **6.2 Non-Title IX Sexual Harassment**

While Title IX requires that the alleged conduct meet certain elements before it is considered Title IX Sexual Harassment, the University also prohibits unwelcome conduct of a sexual nature or based on sex (1) that may not rise to the level of Title IX Hostile Environment Sexual Harassment (as defined above), (2) that did not occur in the University's education program or activity, but that nevertheless causes or threatens to cause an unacceptable disruption at the University or that substantially and unreasonably interferes with a community member's employment, education, or environment on campus, University property, or in a University program or activity, or (3) that did not occur against a person in the United States.<sup>2</sup>

For the purposes of the Non-Title IX Sexual Harassment definition, conduct is unwelcome when the individual did not request or invite the conduct, and regarded the conduct as undesirable or offensive. The fact that an individual may have tolerated the conduct does not mean that they welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that they object, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one

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<sup>2</sup> Conduct cannot constitute both Title IX Sexual Harassment and Non-Title IX Sexual Harassment.

occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident.

Examples of Non-Title IX Hostile Environment Harassment may include, but are not limited to, the same type of conduct listed above in section 6.1 (including all sub-sections) for Title IX Hostile Environment Sexual Harassment, when such conduct (1) does not rise to the level of being so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; (2) does not occur in the University's education program or activity; or (3) does not occur against a person in the United States.

### 6.3 Sexual Exploitation

Sexual Exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's Consent.<sup>3</sup> Examples of Sexual Exploitation may include, but are not limited to:

- Intentional and repeated invasion of sexual privacy (e.g., walking into the other person's room or private space);
- Prostituting another person;
- Taking or distribution of photographs / images, video or audio recording, or electronically broadcasting (e.g., with a web cam) a sexual activity without Consent;
- Intentional removal or attempted removal of clothing that exposes an individual's bra, underwear, breasts, inner thighs, buttocks, genitals and / or groin area, or that is otherwise sexual in nature without Consent;
- Ejaculating on another person without Consent;
- Intentionally allowing others to view / hear a sexual encounter (such as letting individuals hide in the closet or surreptitiously watch consensual sex) without Consent;
- Viewing or permitting someone else to view another's sexual activity or intimate body parts, in a place where that person would have a reasonable expectation of privacy, without Consent;
- Engaging in voyeurism without Consent;
- Exposing one's genitals or breasts in non-consensual circumstances;
- Inducing another to expose his or her genitals or breasts in non-consensual circumstances;
- Knowingly transmitting a sexually transmitted disease or sexually transmitted infection to another person without his or her knowledge;
- Distributing or displaying pornography to another without that individual's Consent;
- Misappropriation of another person's image or identity on apps, websites, or other venues designed for dating or sexual connections.

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<sup>3</sup> Conduct cannot constitute both (1) Sexual Exploitation and (2) Title IX Sexual Harassment or Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of the Title IX Sexual Harassment or Non-Title IX Sexual Harassment definition, then that conduct will not also separately be analyzed as Sexual Exploitation.



## 6.4 Sexual Assault

While Title IX requires that the alleged conduct occurs in a University program or activity against a person in the United States, Liberty also prohibits Sexual Assault that did not occur in the University's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

Sexual Assault is any actual or attempted sexual contact, including contact with any object, with another person without that person's Consent. As used in this Policy, sexual contact includes intentional contact by the accused with the victim's intimate parts (genital area, groin, inner thigh, buttocks, or breasts), whether clothed or unclothed; touching another with any of these body parts, whether clothed or unclothed; coerced touching by the victim of another's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; or forcing another to touch oneself with or on any of these body parts. Sexual Assault includes but is not limited to an offense that meets any of the following definitions:

- **Rape:** 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.
- **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.
- **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.
- **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.
- **Incest:** Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory rape:** Non-forcible sexual intercourse with a person who is under the statutory "age of consent" in the jurisdiction where the sexual activity occurred.<sup>4</sup>

### 6.4.1 Consent

Consent is the voluntary and freely-given agreement, through words and / or actions, to participate in a mutually agreed-upon sexual act. Consensual sexual activity happens when each person willingly affirms that they choose to participate.

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<sup>4</sup> In Virginia, the legal age of consent is 18.

In evaluating whether Consent has been voluntary and freely-given, the University will consider the presence of any force, threat of force, or coercion; whether the Complainant had the capacity to give Consent; and whether the communication (through words and / or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with a similar identity) as willingness to engage in a particular sexual act.

Consent cannot be obtained from another in situations involving physical force or a reasonable belief of the threat of physical force upon another person, when one person overcomes the physical limitations of another person, or when the other person is incapacitated.

In cases of alleged Sexual Misconduct, Liberty applies the above definition of Consent, as well as the principles listed below, in determining whether an actor Consented to a particular act:

- Consent is voluntary, affirmative, and freely-given.
- Silence, passivity, the lack of movement, or the absence of resistance or saying "no," in and of themselves, do not mean Consent can be reasonably inferred.
- Consent to one form of sexual activity does not, by itself, constitute Consent to any other forms of sexual activity.
- Previous relationships or previous Consent do not, by themselves, constitute Consent to future sexual acts. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may be factors in determining whether there was Consent.
- Consent to an act with one person does not give Consent to such an act with another person.
- Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was Consent.
- Consent can be withdrawn or modified at any time. When Consent is withdrawn or modified, the sexual activity for which there is no longer Consent must stop immediately.
- Consent cannot be procured, expressly or implicitly, by use of physical force, intimidation, threats, or coercion (see section 6.4.2 Coercion below).
- There can be no Consent to sexual activity with someone known to be—or who should be known to be—mentally or physically incapacitated (see section 6.4.3 Incapacitation below).
- Use of alcohol or other drugs will never excuse behavior that violates this Policy.
- Consent can only be given if one is legal age for consent in the jurisdiction where the sex act occurred.<sup>5</sup>

Proof of Consent or lack of Consent is not a burden placed on either party involved in an incident. Rather, the University has the burden of proof and and burden of gathering evidence.

### Consensual Relationships

Liberty University's Statement of Professional Ethics (Faculty Handbook) prohibits the University's faculty members from having inappropriate and/or preferential relationships with

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<sup>5</sup> In Virginia, the legal age of consent is 18.

University students apart from being a mentor, teacher, or role model. When the conduct involves both a violation of the Statement of Professional Ethics (Faculty Handbook) and this Policy, the procedures under this Policy will apply.

#### **6.4.2 Coercion**

Coercion is conduct or intimidation that would compel an individual to do something against their will by: (1) the use of physical force, (2) threats of severely-damaging consequences, or (3) pressure that would reasonably place an individual in fear of severely-damaging consequences. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. Coercive behavior differs from seductive behavior based on the degree and type of pressure someone uses to obtain Consent from another.

#### **6.4.3 Incapacitation**

Incapacitation means the physical and / or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to the influence of drugs or alcohol, incapacitation requires more than being under the influence of drugs or alcohol. Incapacitation is determined based on the facts and circumstances of the particular situation looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation; whether the individual was able to communicate decisions regarding Consent, non-Consent, or the withdrawal or modification of Consent; and whether such condition was known or reasonably known to the Respondent or a reasonable sober person in the Respondent's position.

#### **6.5 Dating Violence**

While Title IX requires that the alleged conduct occurs in a University program or activity against a person in the United States, Liberty also prohibits Dating Violence that did not occur in the University's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined with 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. Dating Violence includes, but is not limited to, sexual or physical abuse, such as physical harm, bodily injury, or criminal assault, or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

## 6.6 Domestic Violence

While Title IX requires that the alleged conduct occurs in a University program or activity against a person in the United States, Liberty also prohibits Domestic Violence that did not occur in the University's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

Domestic Violence is a felony or misdemeanor crime<sup>6</sup> of violence committed by:

- A current or former spouse or intimate partner of the victim.
- A person with whom the victim shares a child in common.
- A person who is a current or former cohabitant of the victim as a spouse or intimate partner.
- A person similarly situated to a spouse of the victim under Virginia's domestic or family violence law.
- Any other person against an adult or youth victim who is protected from that person's acts under applicable domestic or family violence laws of Virginia (or, if the crime occurred outside of Virginia, the jurisdiction in which the crime of violence occurred). In addition to the relationships described above, Virginia law protects in-laws who live in the same home, all co-habitants without regard to spouse or intimate partner status, and those who have cohabitated in the past year along with their children.

Domestic Violence includes, but is not limited to, sexual or physical abuse, such as physical harm, bodily injury, or criminal assault, or the threat of such abuse.

## 6.7 Stalking

While Title IX requires that the alleged conduct occurs in a University program or activity against a person in the United States, Liberty also prohibits Stalking that did not occur in the University's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, University property, or in a University program or activity, (2) substantially and unreasonably interfere with a community member's employment, education or environment on campus, University property, or in a University program or activity, or (3) create a hostile environment for community members on campus, University property, or in a University program or activity.

Stalking is engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for her, his or other people's safety, or to suffer Substantial Emotional Distress. Stalking includes cyber or electronic stalking.

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<sup>6</sup> See Appendix B.

### **6.7.1 Course of Conduct**

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly (by use of another person), or using another way (by any action, method, device, or means), follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with that person's property.

### **6.7.2 Reasonable Person**

Reasonable person means a reasonable person in the victim's circumstances.

### **6.7.3 Substantial Emotional Distress**

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

Stalking behavior may include, but is not limited to:

- Repeated, unwanted and intrusive communications by phone, mail, text message, and / or email or other electronic communications, including social media;
- Repeatedly leaving or sending the victim unwanted items, presents, or flowers;
- Following or lying in wait for the victim at places such as home, school, work, or recreational facilities;
- Making direct or indirect threats to harm the victim, or the victim's children, relatives, friends, or pets;
- Damaging or threatening to damage the victim's property;
- Repeatedly posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth, that would cause a person to feel threatened or intimidated;
- Unreasonably obtaining personal information about the victim.

## **6.8 Retaliation and Interference with Process**

Retaliation and Interference with Process is an act of intimidation, threat, Coercion, discrimination or any other adverse action or threat thereof against any individual for the purpose of interfering with any right or privilege secured by Title IX, its regulations, or this Policy or because the individual has made a Report or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Encouraging or assisting another person to engage in retaliation or to interfere with the process are also considered Retaliation and Interference with Process and violate this Policy. While the University does not prohibit the parties from discussing the allegations in a Formal Complaint, acts that could constitute Retaliation and Interference with Process may include, but are not limited to: acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; acts or comments that are intended to influence whether someone participates in the complaint resolution process, including the live hearing; acts or comments intended to embarrass the individual; adverse changes in employment status or opportunities; adverse

academic action; and adverse changes to academic, educational, and extra-curricular opportunities. Retaliation and Interference with Process may be in person, through social media, email, text, and other forms of communication, or through representatives or any other person. Retaliation and Interference with Process may be present against a person even when the person's allegations are unsubstantiated.

Liberty is committed to protecting the rights of the Complainant, the Respondent, and anyone else involved in the complaint resolution process. Any conduct constituting Retaliation or Interference with Process is a violation of this Policy, which is subject to disciplinary action up to and including termination of employment or expulsion. Concerned individuals should report acts of retaliation to the Title IX Coordinator immediately.

### **6.9 Attempt to Commit Prohibited Conduct**

Attempt to Commit Prohibited Conduct occurs when an individual, with intent to commit a specific act of Prohibited Conduct, performs any act that is a substantial step toward the commission of that act of Prohibited Conduct. The reason the attempt did not result in the intended Prohibited Conduct does not matter as to whether the Policy was violated.

### **6.10 Complicity**

Complicity is any act taken with the purpose of aiding, facilitating, promoting, or encouraging the commission of any act of Prohibited Conduct by another person, without regard to whether the intended Prohibited Conduct occurred.

## **7. CONFIDENTIALITY**

Liberty is committed to protecting the privacy of all individuals involved in a Report or Formal Complaint of Prohibited Conduct. The University will protect a Complainant's confidentiality to the extent possible, regardless of whether the Complainant specifically requests confidentiality, and will keep confidential the identity of any individual who has made a Report or filed a Formal Complaint alleging a violation of this Policy, as well as any Complainant, Respondent, and Witness, except as prescribed by law or to carry out the complaint resolution process pursuant to this Policy.

Liberty encourages individuals who have experienced Prohibited Conduct to talk to someone about what happened. Privacy and confidentiality have distinct meanings under this Policy. Different people on campus have different legal reporting responsibilities, and different abilities to maintain privacy or confidentiality, depending on their roles at the University. Some individuals and campus resources can offer confidentiality while others have specific obligations to respond when they receive a Report of a crime or a campus policy violation.

In making a decision about whom to contact for support and information, it is important to understand that most University employees are not Confidential Resources, and are therefore obligated to report to Liberty any information they receive about Prohibited Conduct. Persons who have experienced Prohibited Conduct are encouraged to consider the following information in choosing whom to contact for information and support.

## 7.1 Confidential Resources

Liberty recognizes that some individuals may wish to keep their concerns confidential. Confidential communications are those communications which cannot be disclosed to another person, without the reporter's consent, except under very limited circumstances such as allegations involving the physical or sexual abuse of a child (under the age of 18) or vulnerable adult or an imminent threat to the life of any person. Individuals who desire the details of Prohibited Conduct to be kept confidential should speak with a medical professional, professional counselor, minister or other pastoral counselor, or trained victims' advocate. These resources are listed below.

### On-Campus

- Liberty University Student Counseling Services  
Green Hall, Suite 1830  
1971 University Blvd.  
Lynchburg, VA 24515  
434.582.2651 (Office)  
[studentcounselingservices@liberty.edu](mailto:studentcounselingservices@liberty.edu)
- Liberty University Student Health Center (Operated by Central Virginia Family Physicians ("CVFP") Medical Group)  
Commons 3, Lower Level  
1606 Regents Parkway  
Lynchburg, VA 24515  
434.338.7774 (Office)
- Confidential Advocate  
LU Shepherds (Must Specifically Request a Confidential Advocate Up Front)  
Dorm M17, Ground Level  
434.592.5411 (Office)  
[lushpherd@liberty.edu](mailto:lushpherd@liberty.edu)

### Off-Campus

- CENTRA Lynchburg General Hospital  
1901 Tate Springs Rd.  
Lynchburg, VA 24501  
434.200.3000 (Switchboard)
- CENTRA Virginia Baptist Hospital  
3300 Rivermont Ave.  
Lynchburg, VA 24503  
434.200.4000 (Switchboard)
- Employee Assistance Program (Employees only – provided at no cost)  
The Hartford Ability Assist ("EAP")  
800.964.3577

- Sexual Assault Response Program (“SARP”)  
YWCA  
Lynchburg Office  
1900 Tate Springs Rd., Suite B  
Lynchburg, VA 24501  
434.947.7422 (Office)  
888.947.7273 (24-Hour Confidential Hotline)
- Veterans Crisis Line  
800.273.8255

A person who speaks to a Confidential Resource should understand that when the person does not report the concern to Liberty, Liberty is then unable to provide certain supportive / interim measures that would require involvement from the University (such as issuing a no contact directive), investigate the particular incident, or pursue disciplinary action. Even a Confidential Resource may be required by law to report certain information, such as information involving certain threats of harm or that relates to the physical abuse, sexual abuse, or neglect of a child under the age of 18 (see section 9.3 Mandatory Reporting Concerning Minors below for more information), as well as information responsive to a subpoena, search warrant, or court order. Individuals who speak with a Confidential Resource may later decide to report the incident to Liberty and / or to law enforcement.

## 7.2 Non-Confidential Communications

Non-confidential communications are those communications with any Liberty employee who is not a Confidential Resource. Only Confidential Resources can promise confidentiality, subject to some limited exceptions such as those stated in section 7.1 Confidential Resources above. All other Liberty employees who are not Confidential Resources and who become aware of incidents or allegations of Prohibited Conduct either must report the matter to the Title IX Coordinator (see section 9.2 below for more information about Responsible Employees) or are strongly encouraged by the University to do so (all other employees who are not designated as Confidential Resources or Responsible Employees). Responsible Employees who must report will strive to remind an individual of their reporting obligations before the individual has disclosed a situation that requires reporting to the Title IX Coordinator.

Although most University employees cannot promise confidentiality, Liberty is firmly committed to protecting the privacy of individuals involved in a Report or Formal Complaint of Prohibited Conduct. Allegations of Policy violations will be considered private and will only be shared with other Liberty employees on a need-to-know basis, as prescribed by law, even if the individuals involved do not specifically request confidentiality. The University will keep confidential the identity of any individual who has made a Report or filed a Formal Complaint alleging a violation of this Policy, as well as any Complainant, Respondent, and Witness, except as required or prescribed by law, or to carry out the complaint resolution process pursuant to this Policy. Allegations of Prohibited Conduct will not be shared with law enforcement without the consent of the individual who has alleged the Prohibited Conduct, unless the allegations involve certain threats of harm or relate to the physical abuse, sexual abuse, or neglect of a child under the age of



18 (see section 9.3 Mandatory Reporting Concerning Minors below for more information) or unless Liberty is compelled to do so pursuant to a subpoena, search warrant, or court order.

In addition, although the University will strive to protect the privacy of all individuals involved to the extent possible consistent with the University's legal obligations, the University may be required to share information with individuals or organizations outside the University under reporting or other obligations pursuant to federal and state law, such as reporting of Clery Act crime statistics, reporting as outlined in section 7.5 Review Committee below, and mandatory reporting of child abuse and neglect. In addition, if there is a criminal investigation or civil lawsuit related to the alleged misconduct, the University may be subject to a subpoena or court order requiring the University to disclose information to law enforcement and / or the parties to a lawsuit. In these cases, personally identifying information will not be reported to the extent allowed by law and, if reported, affected students will be notified consistent with the University's responsibilities under FERPA, as allowed by law.

### **7.3 Requests for Confidentiality or No Action**

When Liberty receives a Report of Prohibited Conduct, it has a legal obligation to respond in a timely and appropriate manner. Making a Report or Formal Complaint to Liberty does not require an individual to begin or participate in a complaint resolution process, or to report to local law enforcement. However, based on the information gathered, Liberty may determine that it has a responsibility to move forward with the complaint resolution process (even without the participation of the Complainant). In a situation in which the Complainant requests that their name or other identifiable information not be shared with the Respondent, or that no action be taken against the Respondent, Liberty will evaluate the request considering the following factors: the seriousness of the alleged misconduct, the respective ages and roles of the Complainant and Respondent, whether there have been other allegations of Prohibited Conduct about the same Respondent, whether the Respondent has a history of arrests or records from a prior school indicating a history of Prohibited Conduct, whether the Respondent threatened further Prohibited Conduct or other violence against the Complainant or others, whether the Prohibited Conduct was committed by multiple Respondents, whether the Prohibited Conduct was perpetrated with a weapon, whether Liberty possesses other means to obtain relevant evidence of the Prohibited Conduct (e.g., security footage, eye-Witness, physical evidence), whether the Report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group, and the extent of any threat to the Liberty community.

Liberty will take all reasonable steps to investigate and respond appropriately to the Report or Formal Complaint consistent with the request for confidentiality or request not to pursue an investigation made by the Complainant; however, the scope of the response by Liberty may be impacted or limited based on the nature of the Complainant's request. The University will likely be unable to investigate the particular incident or to pursue disciplinary action against the Respondent and also maintain confidentiality. Action while honoring the Complainant's request could include steps to limit the effects of the alleged Prohibited Conduct and prevent its recurrence that do not involve an investigation or disciplinary action against the Respondent or reveal the identity of Complainant.

The University will strive to accommodate the Complainant's requests for confidentiality or no action in most cases, to the extent possible consistent with the University's legal obligations. There may be times when, to provide a safe, non-discriminatory environment for all students and employees or to comply with the law, the University may not be able to honor a Complainant's request for confidentiality or no action. The presence of one or more of the factors above could lead Liberty to move forward with a complaint resolution process (even without the participation of the Complainant). In this instance, the Title IX Coordinator will inform the Complainant and may, at the Complainant's request, communicate to the Respondent that the Complainant asked Liberty not to investigate and that Liberty determined it needed to do so. A Complainant can choose whether or not to participate in any complaint resolution process.

In instances where the University moves forward with a complaint resolution process without the participation of the Complainant, the Complainant will have the same rights as provided to a Complainant under this Policy even if the Complainant did not sign the Formal Complaint.

#### **7.4 Clery Act Reporting and Timely Warnings**

Pursuant to the Clery Act, Liberty includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about individuals involved in an incident. In addition, the Clery Act requires Liberty to issue a crime alert (timely warning) to the campus community about certain reported offenses which may represent a serious or continuing threat to students and employees. The timely warning may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future. The timely warning will not include any identifying information about the Complainant.

In addition, publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and daily crime log, will not include names or other information that may personally identify either party, to the extent permitted by law. To ensure that a Complainant's and Respondent's personally identifying information will not be included in publicly available recordkeeping, the Title IX Coordinator describes the alleged incidents by removing the Complainant's and Respondent's names and, to the extent possible, any other identifiers that would enable the public to identify either party in the context of the incident report.

All Liberty complaint resolution processes are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, and applicable state and federal laws. No information will be released from such processes except as required or prescribed by law and University Policy.

#### **7.5 Review Committee**

Pursuant to Virginia law, the Title IX Coordinator will convene a Review Committee meeting within seventy-two (72) hours of receipt of a Report or Formal Complaint of Sexual Violence, as defined by Virginia law. The Review Committee will be comprised of the Title IX Coordinator, or designee; a representative of LUPD; and a representative from the Division of Student Affairs. In addition, the Review Committee may include a non-voting representative from HR or the Provost Office if the Respondent is a University employee or faculty member, respectively, or

from the Office of Community Life / CARE Team if the Complainant is a University student, depending on the circumstances of the Report or Formal Complaint. The Review Committee will operate in a manner that complies with applicable law.

The Review Committee operates pursuant to Va. Code § 23.1-806 and has access, under Virginia law, to certain otherwise confidential information, including law enforcement records and criminal history information, as provided in Va. Code § 19.2-389 and § 19.2-389.1; health records, as provided in Va. Code § 32.1-127.1:03; University disciplinary, academic, and / or personnel records; and prior records related to Prohibited Conduct maintained by the Title IX Coordinator. The Review Committee has access to all available facts and circumstances and may seek additional information about the reported Sexual Violence through any other legally permissible means.

If, based on consideration of all factors, the Review Committee, determines that the disclosure of information, including personally identifiable information, is necessary to protect the health or safety of the Complainant or other individuals, the representative of law enforcement on the Review Committee will immediately disclose such information to the law enforcement agency that would be responsible for investigating the alleged act of Sexual Violence. If the Review Committee cannot reach a consensus, the Review Committee will defer to the representative from LUPD. The disclosure will be for the purposes of investigation and other actions by law enforcement. Upon such disclosure, the Title IX Coordinator or designee will notify the Complainant that such disclosure is being made. This disclosure process does not apply if the law enforcement agency responsible for investigating the alleged act of Sexual Violence is located outside of the United States or if the appropriate law enforcement agency has already been notified.

The Review Committee will determine whether disclosure is necessary to protect the health or safety of the Complainant or other individuals based upon the following factors as they may be known:

- Whether the identity of the Respondent is unknown;
- Whether the Respondent has been apprehended or is in the custody of law enforcement;
- Whether the reported risk has been addressed or otherwise contained;
- Whether the Respondent has prior arrests or is the subject of prior Reports or Formal Complaints of Prohibited Conduct, especially Sexual Violence, or has any history of violent behavior;
- Whether the Respondent acted alone or has accomplices;
- Whether the Report or complaint reveals a pattern of Prohibited Conduct or that similar acts of Sexual Violence have been set in motion (e.g., by the Respondent, by unknown person(s), by a particular group or organization, around a particular recurring event or activity, or at a particular location);
- Whether the Respondent has a history of failing to comply with any University No-Contact Directive, University protective measures, and / or judicial protective orders<sup>7</sup>;
- Whether the Respondent has threatened to commit violence or engage in any form of Prohibited Conduct;
- Whether the Respondent was known to or had any relationship with the Complainant or whether the Complainant was a random victim of opportunity;

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<sup>7</sup> See Appendix A.

- Whether the reported Sexual Violence involved multiple Respondents;
- Whether the reported Sexual Violence involved physical force or violence;
- Whether the reported Sexual Violence involved any weapon;
- Whether the reported Sexual Violence was facilitated using “date-rape” drugs or whether other drugs or controlled substances were involved;
- Whether the reported Sexual Violence occurred while the Complainant was unconscious, physically helpless, or unaware that Sexual Violence was occurring; and
- Any other factor deemed relevant to making a determination of such risk.

If the Report or Formal Complaint of Sexual Violence, if true, would constitute a felony violation of Va. Code § 18.2-61, *et al.*<sup>8</sup>, the LUPD representative will notify the Review Committee and, within twenty-four (24) hours, will consult with the attorney for the Commonwealth or other prosecutor responsible for prosecuting the alleged act of Sexual Violence. The LUPD representative will provide the prosecutor with the information received by the Review Committee without disclosing personally identifiable information. However, such personally identifiable information will be disclosed if the Review Committee determines a risk to the health or safety of the Complainant or other individuals exists, as discussed above.

The Review Committee process is separate from Liberty’s complaint resolution process discussed further in sections 10 and 0 below and does not alter the University’s presumption of non-responsibility in the complaint resolution process.

## 8. IMMEDIATE / ONGOING ASSISTANCE AFTER PROHIBITED CONDUCT

Liberty will support any person adversely impacted by Prohibited Conduct. Both Liberty and the Lynchburg community provide a variety of resources to assist and support individuals who have experienced Prohibited Conduct or who are affected by allegations of Prohibited Conduct. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to report to the University or to law enforcement.

Support services that may be available include, but are not limited to, connecting the individual with appropriate on-campus and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services; making changes to academic, living, transportation, and / or working arrangements; assistance in filing a criminal complaint; and providing information about protective orders and other available protections and services<sup>9</sup>. Additional information about ongoing assistance is in the section 10.7 Supportive / Interim Measures below. To receive information about obtaining support services, individuals should contact the Title IX Coordinator or a Confidential Resource.

Liberty will provide written notification to affected individuals about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the University and in the community.

A complete description of Liberty and community resources (confidential and non-confidential) is available through the OEC at the contact information in this Policy and at [www.liberty.edu/title-](http://www.liberty.edu/title-)

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<sup>8</sup> See Appendix B.

<sup>9</sup> See Appendix A.

[ix](#). Individuals who believe they have been subjected to Prohibited Conduct are encouraged to seek support from these resources.

## 9. REPORTING PROHIBITED CONDUCT

### 9.1 Reporting to the University

With the exception of Responsible Employees who must report Sexual Misconduct to the Title IX Coordinator (see section 9.2 below), the University strongly encourages all others who may have experienced or know of Prohibited Conduct to report the incident to the University. Options for reporting Prohibited Conduct to the University include: by email at [oecc@liberty.edu](mailto:oecc@liberty.edu), by phone at 434.592.4999, by submitting a [Liberty University Report](#) on the OEC website ([www.liberty.edu/oecc](http://www.liberty.edu/oecc)), or by the OEC office in-person during normal business hours (8:30 AM to 5:00 PM, Monday – Friday).

An individual may also make a Report or Formal Complaint to the University’s Associate Vice President of Equity & Compliance / Title IX Coordinator (see section 2 above for contact information) or any of the Deputy Title IX Coordinators (see section 4 above for contact information). These are the only officials with authority to determine and prescribe corrective measures on behalf of the University for Sexual Misconduct.

Reports and Formal Complaints to the University should include as much information as possible, including the names of the Complainant, the Respondent, and any other involved individuals; the date, time, place, and circumstances of the incident; and whether there is a current safety risk, to enable the University to respond appropriately.

When the University receives a Report or Formal Complaint of Prohibited Conduct, the Title IX Coordinator will promptly contact the Complainant to discuss resources, the availability of supportive / interim measures (with or without the filing of a Formal Complaint), the process of filing a Formal Complaint, and other reporting options. When a student or employee reports to the University that they have been a victim of Prohibited Conduct, whether the offense occurred on- or off-campus, the University will provide the student or employee with a written explanation of the student’s or employee’s rights and options and procedures victims should follow.

If an individual has made a Report to a University employee who is not a Confidential Resource and has not yet heard from the Title IX Coordinator, please promptly report directly to the Title IX Coordinator. The University strongly encourages individuals to make Reports and Formal Complaints of Prohibited Conduct directly to the Title IX Coordinator to ensure a prompt and appropriate response by the University.

### 9.2 Employee Reporting Obligations / “Responsible Employees”

To enable Liberty to respond effectively and to prevent future instances of Sexual Misconduct, certain Liberty employees who are not Confidential Resources are designated as Responsible Employees. Generally, Responsible Employees include employees who have been given the duty of reporting acts of Sexual Misconduct to the Title IX Coordinator by the University and employees who a student could reasonably believe have the authority to take action to redress Sexual Misconduct or a duty to report it.

At Liberty, Responsible Employees include all OEC staff, Residential Faculty and Deans, Online Faculty and Deans, Athletic Coaches (NCAA & Club Sports), Resident Assistants, Resident Directors, LU Shepherds, Resident Shepherds, Graduate Assistants, LUPD, and Office of Community Life (OCL) staff. Responsible Employees who obtain or receive information regarding a possible violation of this Policy must report that information to the Title IX Coordinator. Reports must be made as soon as possible, be in writing, and include all relevant details needed to assess the situation. This includes, to the extent known, the names of the Complainant, Respondent, and other individuals involved in the incident, as well as any known relevant facts, including the date, time, place, and circumstances of the incident. All other Liberty employees who are neither Confidential Resources nor Responsible Employees and who receive such information in the course of their employment position or duties are strongly encouraged to report possible violations of this Policy to the Title IX Coordinator.

Employees who receive Reports should not attempt to “investigate” the allegation or require the reporting individual to provide all the details surrounding the alleged Sexual Misconduct. To the extent the reporting individual provides detail, that information should be provided directly to the Title IX Coordinator. The Report should be kept private and not shared with any other individual. If the employee is uncertain whether the information should be reported to the Title IX Coordinator, the employee should seek guidance from the Title IX Coordinator before providing the Title IX Coordinator with any identifiable information regarding the Report. Moreover, the employee should not treat the Complainant, the Respondent, a Witness, or any other individual involved in the underlying incident any differently following the Report than they would have had there been no Report. Failure of a Responsible Employee to report allegations of Prohibited Conduct to the Title IX Coordinator may result in disciplinary action.

Upon receiving a Report of alleged or possible Sexual Misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken consistent with the complaint resolution process, this Policy, and the law.

### **9.3 Mandatory Reporting Concerning Minors**

Any Liberty employee who becomes aware of the actual or suspected abuse (physical or sexual) or neglect of a child under the age of 18 on campus or in connection with any University event, program, or activity must report it immediately to LUPD and the Title IX Coordinator. In addition, as a mandatory reporter under Virginia law, such individual must also immediately report such abuse or neglect to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department of Social Services’ toll-free child abuse and neglect hotline. If unsure whether to report, the employee should err on the side of caution and report.

### **9.4 Anonymous Reports**

The University will accept anonymous Reports of Prohibited Conduct on the OEC website at [www.liberty.edu/oec](http://www.liberty.edu/oec). The individual making the Report is encouraged to provide as much detailed information as possible to allow the University to investigate the Report and respond as appropriate. This includes, to the extent known, the names of the Complainant, Respondent, and other individuals involved in the incident, as well as any known relevant facts, including the date,

time, place and circumstances of the incident. The University will likely be limited in its ability to investigate an anonymous Report or respond appropriately, unless sufficient information is furnished to enable the University to conduct a meaningful investigation.

### **9.5 Reporting to Law Enforcement**

Some types of Prohibited Conduct prohibited by this Policy, such as Sexual Assault, also constitute criminal conduct.<sup>10</sup> If you are the victim of Sexual Assault or another crime, Liberty encourages you to contact law enforcement immediately. Officers who are trained to assist victims can help you obtain medical treatment, immediately begin a criminal investigation, and take steps to ensure that evidence is preserved so that the crime may be prosecuted. Liberty will, at the direction of law enforcement, provide complete and prompt assistance in obtaining, securing, and maintaining evidence in connection with criminal conduct that violates this Policy.

Reporting potential criminal conduct to Liberty does not require an individual to report to law enforcement. However, at the Complainant's request, Liberty will assist in reporting criminal conduct to law enforcement.

Additionally, a decision not to file a criminal complaint does not preclude a Complainant from making a Formal Complaint under this Policy. An individual can bring a Formal Complaint under Liberty's Policy, even if the individual chooses not to report to law enforcement.

If you would like to report criminal conduct to law enforcement, contact:

Liberty University Police Department  
Green Hall, Southwest Corner  
1971 University Blvd.  
Lynchburg, VA 24515  
434.592.3911 (Emergency)  
434.592.7641 (Non-Emergency)

Lynchburg Police Department  
900 Court Street  
Lynchburg, VA 24504  
911 (Emergency)  
434.455.6050 (Non-Emergency)

### **9.6 Amnesty**

Liberty strongly encourages the reporting of Prohibited Conduct by Complainants and other individuals. The integrity of the process is dependent upon the honesty of all involved in the complaint resolution process. Sometimes, individuals are hesitant to report to Liberty officials or participate in complaint resolution processes because they fear that they themselves may be accused of a violation of The Liberty Way or other Liberty policy that may have been occurring at the time of the incident, such as drug / alcohol use and possession, watching "X" or "NC-17"

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<sup>10</sup> See Appendix B.

rated movies, engaging in sexual activity outside of a biblically-ordained marriage between a natural-born man and a natural-born woman, or cohabitating or spending the night with the opposite sex. To encourage reporting and transparency, individuals who make a good faith report of Prohibited Conduct, and individuals who participate in a Prohibited Conduct complaint resolution process, will not be disciplined by Liberty for any violation of Liberty policies in which they might have engaged in connection with the reported incident, except in the limited circumstances outlined in this section.

In cases involving highly-concerning behavior (e.g., significant alcohol or drug use), Liberty may seek to have a conversation with individuals designed to reduce risk and promote health, safety, and wellbeing. However, any recommended training or educational programming would be optional, non-disciplinary, and not reflected on a community member's official records if not completed. In addition, Liberty may still pursue disciplinary action for the alleged violation of Liberty policies in instances where any other individual is physically harmed by the connected conduct constituting a violation of the Liberty policies, where the connected conduct constitutes a felony crime or Prohibited Conduct, where an employee who engaged connected conduct that is a violation of Liberty policy holds a leadership role on campus (including a leadership role over students or employees), or where an employee engaged in connected conduct that is a violation of Liberty policy with a student.

Outside of those limited circumstances, Liberty will not discipline an individual who makes a good faith report or participates in the complaint resolution process for any violation of Liberty policies in which they might have engaged in connection with the reported incident.

### **9.7 Obligation to Act in Good Faith**

Reports and Formal Complaints of alleged Prohibited Conduct should be made only in good faith. Reports and Formal Complaints that are not made in good faith may be a form of Retaliation and Interference with Process under this Policy and / or may violate other University policies, including but not limited to, those contained in the Employee Handbook, the Faculty Handbook, The Liberty Way, the Graduate Honor Code, the School of Law's Personal Code of Honor, the Liberty University College of Osteopathic Medicine's Code of Conduct, and the Online Honor Code.

### **9.8 Emergency Removal**

The University reserves the right to remove a student Respondent, in whole or in part, from the University's education program or activity on an emergency basis. Prior to removing the student Respondent on an emergency basis, the University will undertake an individualized safety and risk analysis and will determine whether an immediate threat to the physical health or safety of any person arising from the allegations justifies removal. This individualized analysis will generally be conducted by a three-person panel, including the Title IX Coordinator and two representatives from a pool including members of LUPD, the Deputy Title IX Coordinators, employees in Student Affairs / OCL / Residence Life, and other employees appointed by the Title IX Coordinator. If a student Respondent is removed on an emergency basis, the University will provide the student Respondent with notice and an opportunity to challenge the decision immediately following the removal. The University will also attempt to minimize the impact on the Respondent to the extent



possible to still address the threat, during the pendency of the complaint resolution process. Such an emergency removal is not a disciplinary sanction.

### **9.9 Administrative Leave**

The University reserves the rights to place a non-student-employee Respondent on administrative leave, with or without pay, and to issue a temporary campus ban during the pendency of the complaint resolution process.

## **10. GENERAL PROVISIONS FOR COMPLAINT RESOLUTION PROCESS**

When Liberty receives a Formal Complaint of a potential Policy violation, Liberty will promptly and equitably respond to the Formal Complaint pursuant to the guidelines and procedures set forth below. The University will provide a fair and impartial complaint resolution process. A fair process is one that treats the parties equitably, provides the Complainant an opportunity to file a Formal Complaint alleging a violation of this Policy and an opportunity to present evidence of the allegations prior to a decision on responsibility, provides the Respondent notice of the allegations and an opportunity to respond to and present evidence related to those allegations prior to a decision on responsibility, and provides both parties an opportunity to challenge the credibility of the other party and any Witnesses prior to a decision on responsibility. In cases involving allegations of Prohibited Conduct that are not Title IX Sexual Harassment, the ability to challenge credibility is accomplished through the parties' ability to suggest questions to be asked of the other party and Witnesses during the investigation, through the Written Response Statements in response to the investigative report, and through the Written Rebuttal Statements in response to the other party's Written Response Statement as discussed in section 0 Procedures for Resolution of Complaints of Prohibited Conduct Other than Retaliation and Interference with Process below.

Each complaint resolution process will require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or Witness. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties. The University will not require, allow, rely on, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has voluntarily waived the privilege. The University will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party seeking to use the record has given their voluntary, written consent to do so for a complaint resolution process.

This Policy provides different procedures depending on the circumstances of a case, including the type of Prohibited Conduct that is alleged. Upon receiving a Formal Complaint, the Title IX Coordinator will make a preliminary determination of the procedures that apply to the complaint resolution process. The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information at the end of

the investigation phase, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

If a Formal Complaint includes both an allegation of Title IX Sexual Harassment and an allegation of other Prohibited Conduct that does not meet the definition of Title IX Sexual Harassment, the University reserves the right to process the allegations in the same complaint resolution process or to separate the allegations into separate complaint resolution processes.

Note that complaints of related misconduct (e.g., violations of supportive / interim measures (including a no-contact directive), sanctions, the obligation to be truthful, the obligation to act in good faith, a non-disclosure agreement, or another Policy requirement other than Prohibited Conduct), as well as Retaliation and Interference with Process, will be processed in accordance with section 12 Complaints of Related Misconduct below. Reports and Formal Complaints alleging Complicity or Attempt to Commit Prohibited Conduct will be processed the same as those alleging Prohibited Conduct (other than Retaliation and Interference with Process).

### **10.1 Trained Officials**

Each complaint resolution process will be conducted by trained officials (including Investigators, informal resolution facilitators, Title IX Hearing Officer(s) / Adjudicator(s), and Appeal Board members) who are free of conflict of interest and bias. In addition, those individuals will receive annual training on the definition of Title IX Sexual Harassment; the scope of the University's education program or activity; how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at interest, conflicts of interest, and bias; issues related to Title IX Sexual Harassment; and how to conduct an investigation and decision-making process that is neutral, thorough, fair, trauma-informed, protects the safety of all, and promotes accountability. Investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Title IX Hearing Officer(s) / Adjudicators receive training on any technology to be used at a live hearing and 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. The training is free of bias such as sex stereotypes / generalizations and promotes impartial investigations / adjudications.

### **10.2 Equal Rights of the Complainant and Respondent**

In all Prohibited Conduct complaint resolution processes under this Policy, the Complainant and the Respondent are entitled to:

- Be treated with respect, sensitivity, and dignity;
- Appropriate support from the University;
- Privacy to the extent possible based on applicable law and University policy;
- Information regarding all applicable policies and procedures, including this Policy;
- Written explanation of available resources;

- The right to participate or decline to participate in the complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- Equitable procedures that provide both parties with a prompt, and impartial complaint resolution process conducted by individuals who receive annual training on conduct prohibited by this Policy;
- Notice of the allegations and an opportunity to respond;
- The right to review and respond to all information provided to the decision-maker(s);
- Written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings at which the party's participation is invited or expected, with sufficient time for the party to prepare to participate;
- Timely notice of meetings that are part of the complaint resolution process at which the Complainant or Respondent may be present;
- An equal opportunity to identify relevant Witnesses and other evidence and to suggest possible topics to be covered with Witnesses during the Formal Complaint resolution process;
- For the Complainant, not to be questioned or have evidence considered regarding the Complainant's prior sexual conduct with anyone other than the Respondent, unless such questions or evidence are to prove that someone other than the Respondent committed the alleged Sexual Misconduct;
- The right to be free from Retaliation and Interference with Process;
- The right to appeal the decision, as discussed in section 11.6.8 Appeal below;
- The right to notification, in writing, of the resolution, including the outcome of any appeal;
- For the Complainant, the right to report the incident to law enforcement at any time or not;
- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of choice, who may be, but is not required to be, an attorney. See section 10.4 Right to an Advisor below for additional information and requirements regarding the conduct of advisors.
- The Complainant and Respondent will be provided timely and equal access to all information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process, as set forth in section 11.6.2 Access to Information below.

### **10.3 Additional Rights in Cases Alleging Title IX Sexual Harassment**

In cases involving allegations of Title IX Sexual Harassment, the following additional rights will be afforded to the Complainant and the Respondent:

- The parties will be provided an equal opportunity to inspect and review a copy of any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, as set forth in section 11.6.2 Access to Information below.
- The complaint resolution process will include a live hearing, at which each party's advisor may ask the other party and any Witnesses all relevant questions and follow-up questions, as set forth in section 11.6.3.1.2 Live Hearing below.

## 10.4 Right to an Advisor

The Complainant and the Respondent in a complaint resolution process (both the informal and formal resolution processes) have the right to be accompanied to meetings by an advisor of choice, who may be, but is not required to be, an attorney. Generally, the advisor selected by the Complainant or Respondent should be free of conflicts of interest in the resolution process and, if a member of the University community, the advisor should be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the University's complaint resolution process.

Guidelines for advisors are:

- The purpose of the advisor is to support an individual during the complaint resolution process. An advisor is permitted to accompany the individual to interviews or other meetings or proceedings during the complaint resolution process. In selecting an advisor, each party should consider the potential advisor's availability to attend interviews and meetings which may occur in person. As a general matter, the University will not delay its proceedings to accommodate the schedules of advisors.
- If a party selects an attorney as an advisor, the advisor's participation in the complaint resolution process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential and sensitive information and is prohibited from sharing information obtained as an advisor during the complaint resolution process with anyone, including other individuals who may be part of an attorney-client relationship with the party.
- Parties must notify the OEC who they have selected as their advisor. The University will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor.
- Advisors may confer with their advisee, but, except for live hearings for cases involving allegations of Title IX Sexual Harassment (discussed below), advisors may not actively participate in the complaint resolution process. The advisor may accompany the party to all meetings and proceedings relating to the complaint resolution process. The advisor may not appear in lieu of the Complainant or Respondent or speak on their behalf in either in-person or written communications to the University. The advisor may not communicate directly with the Investigator(s), Title IX Hearing Officer(s) / Adjudicator(s), Appeal Board members, Title IX Coordinator, or any other school official involved in the complaint resolution process and may not interrupt or delay the process.
- In complaint resolution processes involving allegations of Title IX Sexual Harassment:
  - At the live hearing, advisors are permitted to ask parties and Witnesses all relevant questions and follow-up questions. Additional information about an advisor's role at the live hearing is included in section 11.6.3.1.2 Live Hearings below.
  - Advisors will receive a copy of all directly-related evidence and the investigative report, as set forth in section 11.6.2 Access to Information below. Advisors may have access to information as described further below in section 11.6.2 Access to Information.
- Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint resolution process by the advisor may result in disqualification of an advisor. The University reserves the right to dismiss an advisor with cause.

## 10.5 Presumption of Non-Responsibility

The presumption is that the Respondent is not responsible for a Policy violation. The Respondent is presumed not responsible until a determination regarding responsibility is made at the conclusion of the complaint resolution process, including any appeal. The Respondent will be deemed responsible for a violation of the Policy only if the Title IX Hearing Officer(s) / Adjudicator(s) concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the Respondent more likely than not engaged in Sexual Misconduct, and if appealed, that outcome is upheld on appeal.

## 10.6 Requests for Reasonable Accommodations

Individuals who need a reasonable accommodation should contact the Title IX Coordinator. The University will consider requests for reasonable accommodations submitted to the Title IX Coordinator on a case-by-case basis. ODAS will assist when requests are based on a disability.

## 10.7 Supportive / Interim Measures

After receiving a Report of alleged Sexual Misconduct, the Title IX Coordinator will consider whether supportive / interim measures, accommodations, or protective actions (such as a no-contact directive)<sup>11</sup> are reasonably necessary or appropriate to protect the parties and the broader University community. Such supportive / interim measures will be available without fee or charge, if requested and reasonably available. Such measures will be designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or to deter sexual harassment.

The University will provide written notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective actions. The University will make appropriate accommodations and provide appropriate supportive / interim measures with or without a Formal Complaint, even when an individual asks to keep a reported violation of this Policy confidential, when a request is made to not investigate the matter, and regardless of whether an individual chooses to report to law enforcement.

Examples of supportive / interim measures include, without limitation:

- Establishing a Liberty no-contact directive<sup>12</sup> prohibiting the parties from communicating, directly or indirectly, with each other;
- Changing an individual's living, housing, or dining arrangements;
- Assistance in finding alternative housing;
- Special parking arrangements;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;

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<sup>11</sup> See Appendix A.

<sup>12</sup> See Appendix A.

- Providing security escorts / safe ride services through LUPD and/or Liberty Security;
- Access to counseling and medical services;
- Making information about civil legal protective orders and restraining orders available to a Complainant<sup>13</sup>;
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

The University determines which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and circumstances, including, but not limited to, the specific need expressed by the individual; the age of the individuals involved; the severity or pervasiveness of the allegations; any continuing effects on the individual; whether the Complainant and Respondent share the same dining hall, class, transportation, or job location; and whether other judicial measures have been taken to protect the Complainant. The Title IX Coordinator will be responsible for determining what measures will be put in place.

The University will maintain as confidential any supportive / interim measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the accommodations or protective measures<sup>14</sup>. The University will only disclose information necessary to provide the accommodations or protective measures in a timely manner to individuals who need to know the information. The Title IX Coordinator will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. The University will inform the individual before sharing personally identifying information that the University believes is necessary to provide an accommodation or protective measure. The University will tell the individual which information will be shared, with whom it will be shared, and why it will be shared.

Any concern about a violation of a supportive / interim measure should be reported to the Title IX Coordinator promptly. Complaints of a violation of a supportive / interim measure will be handled as discussed in the section 12 Complaints of Related Misconduct below.

### 10.8 Non-Participation and Silence

Either party may decline, at any time, to provide information or participate further in the complaint resolution process. If at any time the Complainant declines to participate in the process, the University's ability to meaningfully investigate and adjudicate a Formal Complaint may be limited. In such cases, the Title IX Coordinator will decide whether to proceed with the complaint resolution process, if possible to do so. The Respondent also has the right to decline to participate in the complaint resolution process. In such cases, the University will proceed with the complaint resolution process and will make a determination based on the information available. A Respondent's silence in response to a Complainant's allegation will not be viewed as an admission of the allegation, but may leave the Complainant's allegations undisputed. Similarly, a Complainant's silence in response to a Respondent's denial or defense will not be viewed as an admission of the denial or defense, but may leave the Respondent's denial or defense undisputed.

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<sup>13</sup> See Appendix A.

<sup>14</sup> See Appendix A.

Even if a party decides not to participate or chooses to stop participating at a phase of the process, the party will still be given the option to participate during subsequent phases of the process.

In cases involving allegations of Title IX Sexual Harassment, the Title IX Hearing Officer(s) will not draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions.

### **10.9 Witness Participation**

Through our commitment to a Christian life, Liberty community members live a life of personal integrity, sensitivity to the needs of others, and social responsibility. Among other virtues, as followers of Jesus Christ, we seek righteousness, mercy, and justice. In keeping with these virtues, Liberty students and employees are expected to participate in the complaint resolution process when requested by the Investigator, Title IX Coordinator, or another University representative.

Note that individuals who participate in a Prohibited Conduct complaint resolution process will be protected from Retaliation and Interference with Process and will not be disciplined by Liberty for any violation of Liberty policies in which they might have engaged in connection with the reported incident, except in the limited circumstances discussed in section 9.6 Amnesty, above.

### **10.10 Obligation to be Truthful**

All parties and Witnesses have an obligation to be truthful in any process under this Policy. Engaging in dishonesty may be a form of Retaliation and Interference with Process under this Policy and / or violate other University policies, including but not limited to, the Code of Business Conduct, Employee Handbook, the Faculty Handbook, The Liberty Way, the Graduate Honor Code, the School of Law's Personal Code of Honor, the Liberty University College of Osteopathic Medicine's Code of Conduct, and the Online Honor Code. Comments or actions intended to influence other individuals to not be truthful in the complaint resolution process may also violate this Policy and / or other University policies.

### **10.11 Conflicts of Interest**

If a Complainant or Respondent has any concern that any individual acting for the University under this Policy has a conflict of interest or bias, for or against complainants or Respondents generally or for or against the individual Complainant or Respondent, such concern should be reported in writing to the Title IX Coordinator. Any concern regarding a conflict of interest or bias must be submitted within two (2) calendar days after receiving notice of the potentially conflicted/biased person's involvement in the process, or that concern may be waived. The Title IX Coordinator will review the concerns and take appropriate steps to ensure that no conflicts of interest or bias exist on the part of anyone investigating or adjudicating a Formal Complaint under this Policy.

Any concern of a conflict of interest or bias regarding the Title IX Coordinator must be submitted in writing to Liberty University's Internal Auditor ([audit@liberty.edu](mailto:audit@liberty.edu)) for a determination. If the Title IX Coordinator has a conflict of interest with respect to a Formal Complaint, the General

Counsel shall appoint another person to oversee adherence to the Sexual Misconduct Policy with respect to the Formal Complaint at issue.

The parties should be mindful that Liberty is a small and close-knit campus community. That a party simply knows an individual acting for the University under this Policy or has had some limited interaction with such individual generally will not be deemed a disqualifying conflict of interest or bias in most instances. However, the University encourages the parties to bring any concern of conflict of interest or bias to the Title IX Coordinator's attention for consideration.

## **10.12 Time Frames for Resolution**

Liberty is committed to the prompt and equitable resolution of allegations of Prohibited Conduct. As is discussed in more detail above and below, different procedures apply to cases involving allegations of Title IX Sexual Harassment than to other cases alleging Prohibited Conduct. The time frames for each phase of the different procedures are as follows:

### **10.12.1 Cases Involving Allegations of Title IX Sexual Harassment**

Specific processes and time frames for each phase of the complaint resolution process for Formal Complaints involving allegations of Title IX Sexual Harassment are set forth in the section 0 Procedures for Prohibited Conduct Complaint Resolution Process below. Each phase of the process will generally seek to be completed in the following time frames:

- Review of Formal Complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: sixty (60) calendar days
- Review of directly-related evidence and Investigator consideration of evidence response statements: seventeen (17) calendar days
- Review of investigative report and written response: five (5) calendar days
- Live Hearing and Determination: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

### **10.12.2 Cases Involving Allegations of Prohibited Conduct Other than Title IX Sexual Harassment and Retaliation and Interference with Process**

Specific processes and time frames for each phase of the complaint resolution process for Formal Complaints involving allegations of Prohibited Conduct other than Title IX Sexual Harassment are set forth in the section 0 Procedures for Prohibited Conduct Complaint Resolution Process below. Each phase of the process will generally be completed in the following time frames:

- Review of Formal Complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: sixty (60) calendar days
- Review of investigative report and written response / rebuttal: ten (10) calendar days
- Adjudication: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days



### **10.12.3 Deviations from Time Frames in Cases of Prohibited Conduct Other than Retaliation and Interference with Process**

In any complaint resolution process for Prohibited Conduct other than Retaliation and Interference with Process, the resolution process may include additional days between these phases as the University transitions from one phase to another. The parties will be notified when each listed phase begins and when it ends. Efforts will be made to complete the process in a timely manner balancing principles of thoroughness, fundamental fairness, and promptness.

Circumstances may arise that require the extension of timeframes based on the complexity of the allegations, the number of Witnesses involved, the availability of the parties and Witnesses involved, the addition of new parties or new allegations to an amended notice of allegations, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, the need for language or assistance or accommodation of disabilities, or other circumstance that requires extension.

In cases where conduct that violates this Policy has also been reported to the police, Liberty will not delay its complaint resolution process to wait for the conclusion of a criminal investigation or proceeding. The University will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, the University may need to delay temporarily an investigation under this Policy while law enforcement is in the process of gathering evidence. Once law enforcement has completed its gathering of evidence, the University will promptly resume and complete its investigation and resolution procedures.

Complainants are encouraged to begin the complaint resolution process as soon as possible following an alleged incident of Prohibited Conduct. There is no statute of limitation for reporting Prohibited Conduct to the University under this Policy; however, the University's ability to respond may diminish over time, as evidence may erode, memories may fade, and Respondents may no longer be affiliated with the University. If a Report or Formal Complaint is brought forward more than five (5) calendar years after an alleged incident, the University, in its discretion, may decline to process it under these procedures, but reserves the right to take other administrative action as appropriate depending on the specific circumstances, and will provide reasonably appropriate supportive / interim measures, assist the Complainant in identifying external reporting options, and take reasonable steps to eliminate any Prohibited Conduct, prevent its recurrence, and remedy its effects. If such a late report involves a Respondent who is still a member of the University community as a student or employee, the Report or Formal Complaint generally will be processed under these procedures.

### **10.13 Transcript Notation Following Respondent Withdrawal**

Pursuant to Virginia law, if a Respondent accused of Sexual Assault or any other Sexual Misconduct that would meet the definition of Sexual Violence under Va. Code § 23.1-900 withdraws from the University during the complaint resolution process, the University will include a prominent notation on the Respondent's academic transcript stating: "Withdrew while under investigation for a violation of [Sexual Assault or other applicable Sexual Misconduct] under the Liberty University Sexual Misconduct Policy." If the Respondent is subsequently found not responsible for the alleged Sexual Assault or other applicable Sexual Misconduct, or if the

Respondent is found responsible but not suspended or expelled from the University, the University will promptly remove the transcript notation. For more information about transcript notations in matters when the Respondent is found responsible and is suspended or expelled as a result, see section 11.6.5 Transcript Notation for Suspended or Expelled Respondent below.

#### **10.14 Application of Policy**

When the University receives a Report or Formal Complaint alleging a violation of this Policy, the University will apply the complaint resolution procedures from the Policy that is in effect at the time that the Report or Formal Complaint is made and generally will apply the Prohibited Conduct definitions from the Policy in effect at the time the alleged misconduct occurred, reserving the right to make any appropriate modifications to harmonize the two policies for a prompt and equitable response.

#### **10.15 Reservation of Flexibility**

The procedures set forth in this Policy reflect the University's desire to respond to Reports and Formal Complaints in good faith and in compliance with legal requirements. The University recognizes that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the circumstances of the matter. The University reserves the right to modify procedures or to take other administrative action as appropriate under the circumstances. In making any modifications to the procedures outlined in this Policy, the University will comply with the legal requirements applicable to the allegations at issue.

In instances where a Formal Complaint is made against an individual who is not a student or employee of the University and in instances when the conduct alleged, if true, would not meet the definition of Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking, the University reserves discretion to use a process or procedures other than those outlined below, including no process, as the Title IX Coordinator determines to be appropriate under the circumstances.

### **11. PROCEDURES FOR RESOLUTION OF COMPLAINTS OF PROHIBITED CONDUCT OTHER THAN RETALIATION AND INTERFERENCE WITH PROCESS**

When the University receives a Formal Complaint of potential Prohibited Conduct alleging a violation of this Policy, the University will promptly and equitably respond, investigating and adjudicating the Formal Complaint pursuant to the guidelines and procedures set forth below.

As discussed above in the section 10 General Provisions for Complaint Resolution Process above, different procedures apply to the complaint resolution process depending on the circumstances of a case, including the type of Prohibited Conduct that is alleged. Further information about the different procedures is provided below.

#### **11.1 Initial Meeting Between Complainant and Title IX Coordinator**

In most cases, the first step of the complaint resolution process is a preliminary meeting between the Complainant and the Title IX Coordinator. The purpose of the preliminary meeting is to allow

the Title IX Coordinator to gain a basic understanding of the nature and circumstances of the Report or Formal Complaint; it is not intended to be a full investigation interview.

As part of the initial meeting with the Complainant, the Title IX Coordinator will:

- assess the nature and circumstances of the allegation;
- address immediate physical safety and emotional well-being of the Complainant;
- notify the Complainant of the right to contact law enforcement and seek medical treatment;
- notify the Complainant of the importance of preservation of evidence;
- provide the Complainant with information about on- and off-campus resources;
- notify the Complainant of the range of available supportive / interim measures with or without filing a Formal Complaint;
- provide the Complainant with an explanation of the procedural options, including how to file a Formal Complaint, if not already filed, and the complaint resolution process;
- advise the Complainant of the right to have an advisor of choice, as applicable under this Policy;
- discuss the Complainant's expressed preference for the manner of resolution and any barriers to proceeding;
- notify the Complainant of the amnesty provision under this Policy; and
- explain the University's policy prohibiting Retaliation and Interference with Process.

All Reports and Formal Complaints of Prohibited Conduct will be reviewed by the Title IX Coordinator to determine the risk of harm to individuals or to the campus community. Steps will be taken to address these risks in consultation with appropriate school officials, such as LUPD and / or the Review Committee.

If the Title IX Coordinator determines that the facts of the Report or Formal Complaint, even if substantiated, would not constitute a violation of this Policy, the Title IX Coordinator may dismiss the matter or refer it to another applicable disciplinary procedure. The parties will be notified of that determination and the Complainant will be informed of other procedures for resolving the matter and of other resources that may be available to the Complainant.

## **11.2 Formal Complaint and Notice of Allegations**

The filing of a Formal Complaint begins the complaint resolution process. In most cases, Formal Complaints are made by the Complainant. However, the University reserves the right to move forward with the complaint resolution process to protect the safety and welfare of the community, even if a Complainant chooses not to make or move forward with a Formal Complaint. Generally, the Title IX Coordinator will decide whether the University will move forward with a complaint resolution process when the Complainant has not filed a Formal Complaint. If the University decides that it should move forward with the complaint resolution process under such circumstances, the Title IX Coordinator will sign the Formal Complaint and the University will notify the Complainant before proceeding. See section 7.3 Requests for Confidentiality or No Action above for more information. The Title IX Coordinator signing the Formal Complaint does not make the Title IX Coordinator a party to the complaint resolution process or adverse to the Respondent.

When the Title IX Coordinator has received a Formal Complaint, the Title IX Coordinator will assess the Formal Complaint to determine if it states any allegations of Prohibited Conduct. If the Formal Complaint alleges Prohibited Conduct, the Title IX Coordinator will provide a written notice of allegations to the parties who are known. The written notice will include:

- Notice of the University's complaint resolution process, including the informal resolution process;
- Notice of the allegations, including the identities of the individuals involved in the incident(s), if known, the conduct allegedly constituting Prohibited Conduct, and the date and location of the alleged incident, if known;
- A statement that the Respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the complaint resolution process;
- Notice that the parties have the right to an advisor of choice, as applicable under this Policy, who may be, but is not required to be, an attorney;
- Notice that the parties have the right to inspect and review evidence, as applicable under this Policy; and
- Notice of Policy provisions that prohibit knowingly making false statements or knowingly submitting false information during the complaint resolution process, including the section 9.7 Obligation to Act in Good Faith above.

If the University decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided, the notice will be updated to provide notice of the additional allegations to the parties whose identities are known.

In addition, upon receiving a Formal Complaint, the Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process.

When the Title IX Coordinator has received a Formal Complaint of Prohibited Conduct other than Retaliation and Interference with Process, the Title IX Coordinator will also meet with the Respondent and will:

- Notify the Respondent of the Formal Complaint and alleged Policy violation(s);
- Provide the Respondent an explanation of any applicable procedural options and the complaint resolution process;
- Notify the Respondent of the importance of preservation of evidence;
- Notify the Respondent of any supportive / interim measures that have been put in place that directly relate to the Respondent (e.g., no contact directive);
- Notify the Respondent of the range of available supportive / interim measures;
- Provide the Respondent with information about on- and off-campus resources;
- Advise the Respondent of the right to have an advisor of choice, as applicable under this Policy;
- Notify the Respondent of the amnesty provision under this Policy; and
- Explain the University's Policy prohibiting Retaliation and Interference with Process.

This stage of initial review of the Formal Complaint by the Title IX Coordinator and initial notice of the allegations to the parties generally will take no more than ten (10) calendar days.

### **11.3 Investigation of Other University Policy Violations**

If a Formal Complaint of Prohibited Conduct also implicates alleged violations of other Liberty policies, the Title IX Coordinator, in coordination with other appropriate school officials, will evaluate the allegations to determine whether the investigation of the alleged Prohibited Conduct and the other alleged policy violations may be appropriately investigated together without unduly delaying the resolution of the Prohibited Conduct Formal Complaint. Where the Title IX Coordinator determines that a single investigation is appropriate, the determination of responsibility for each of the alleged policy violations will be evaluated under the applicable policy. The adjudication may be conducted in accordance with this Policy or the adjudication of the other policy violation may be conducted separately from the Prohibited Conduct.

Note that individuals who make a good faith report of Prohibited Conduct, and individuals who participate in a Prohibited Conduct complaint resolution process, will not be disciplined by Liberty for any violation of Liberty policies in which they might have engaged in connection with the reported incident, except in the limited circumstances discussed in section 9.6 Amnesty, above.

### **11.4 Consolidation of Formal Complaints**

The University reserves the right to consolidate Formal Complaints into one complaint resolution process as to allegations of Prohibited Conduct against one Complainant against more than one Respondent, by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

### **11.5 Informal Resolution Process**

Following a Formal Complaint, at any time before reaching a determination regarding responsibility, the University may facilitate an informal resolution process with the voluntary assent of all parties. In cases involving allegations that an employee engaged in Title IX Sexual Harassment against a student, informal resolution is not appropriate.

If the Complainant, the Respondent, and the University all agree to pursue an informal resolution, the Title IX Coordinator will attempt to promptly and equitably facilitate a resolution that is agreeable to all parties. The Title IX Coordinator will not be an advocate for either the Complainant or the Respondent in the informal resolution process, but rather will aid in the resolution of Formal Complaints in a non-adversarial manner. Under the informal process, the University will only conduct such fact-gathering as is useful to resolve the Formal Complaint and as is necessary to protect the interests of the parties, the University, and the University community.

The University will not compel a Complainant or Respondent to engage in mediation, to directly confront the other party, or to participate in a particular form of informal resolution. Participation in informal resolution is voluntary, and the Complainant and Respondent have the option to discontinue the informal process and request a Formal Complaint resolution process at any time prior to reaching a resolution. In addition, the University always has the discretion to discontinue

the informal process and move forward with a Formal Complaint resolution process. If at any point during the informal resolution process prior to reaching an agreed upon resolution, the Complainant or Respondent or the University wishes to cease the informal resolution process and to proceed through the formal resolution process, the informal resolution process will stop and the formal resolution process outlined below will be invoked.

Prior to engaging in an informal resolution process, the University will provide the parties with a written notice disclosing: the allegations, the requirements of the informal resolution process, including the circumstances under which the informal resolution process precludes the parties from resuming a Formal Complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. In addition, the University will obtain the parties' voluntary, written consent to the informal resolution process. Any informal resolution must adequately address the concerns of the Complainant, as well as the rights of the Respondent and the overall intent of the University to stop, remedy, and prevent Policy violations. Supportive / interim Measures, sanctions, and remedies may be included in the agreed-upon terms and conditions of a resolution. A successful informal resolution results in a binding agreement between the parties. If all parties to the Formal Complaint and the University do not agree in writing to the terms and conditions of the proposed resolution within five (5) calendar days of the Title IX Coordinator presenting the proposed resolution to the parties, the Formal Complaint will be referred back to the Formal Complaint resolution process.

Appeals are not allowed in cases where the parties have agreed to a voluntary alternative resolution of the matter.

The informal resolution process generally will take no more than twenty (20) calendar days. In some cases, more time may be required.

## **11.6 Formal Resolution Process for Prohibited Conduct (Other than Retaliation and Interference with Process)**

### **11.6.1 Investigation**

Liberty will appoint one or more trained and impartial Investigators to conduct a prompt and equitable investigation. In most cases, the investigation will be conducted by an Investigator from OEC, but Liberty may, in its discretion, appoint any other trained Investigator who is free of conflict of interest and bias. The parties will receive written notice of the Investigator appointed. If a party has a concern that the Investigator has a conflict of interest or bias, the party should report the concern in writing as set forth in section 10.11 Conflicts of Interest above.

The Investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case. The investigation will typically involve interviews of the Complainant and Respondent and may also involve questioning of other Witnesses and / or review of other information. The parties will have the opportunity to advise the Investigator(s) of any Witnesses they believe should be interviewed, other evidence they believed should be reviewed by the Investigator(s), and questions they believe the Investigator(s) should ask the other party or Witnesses, including questions challenging credibility. The Investigator(s), in consultation with the Title IX

Coordinator, may assess the relevancy of any proposed Witnesses, evidence, and questions, and, in their discretion, may decline to interview Witnesses suggested by the parties and may interview Witnesses who were not suggested by either party. The Investigator(s) may also decline to ask a question suggested by the parties. The Complainant and Respondent will be given an equal opportunity to present Witnesses they believe should be interviewed, and other inculpatory and exculpatory evidence, as part of the investigation. In cases involving allegations of Title IX Sexual Harassment, any Witness that a party wishes to call at a hearing must be suggested as part of the investigation process, prior to the issuing of the investigative report, unless extraordinary circumstances exist as determined by the Title IX Hearing Officer(s) and the Title IX Coordinator.

The parties will be informed of a close-of-evidence date. The parties must submit all information and evidence they would like considered as part of the investigation by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close-of-evidence date, unless the Investigator, in consultation with the Title IX Coordinator, determines otherwise. In cases involving allegations of Title IX Sexual Harassment, all evidence a party wishes to offer or refer to at the hearing must have been provided as part of the investigation process, prior to the close of evidence, unless extraordinary circumstances exist as determined by the Title IX Hearing Officer(s) and the Title IX Coordinator.

At the conclusion of the investigation, the Investigator(s) will prepare an investigative report that fairly summarizes the relevant evidence. Absent good reason, the investigative report will also consist of all information, documents and other evidence that will be provided to the Title IX Hearing Officer(s) / Adjudicator(s). At the Investigator(s)' discretion, such information may include, as applicable: the Formal Complaint, the notice of allegations, any other evidence obtained during the investigation, and the Investigator(s)' report of the investigation. The investigative report will be forwarded to the Title IX Coordinator who will review the investigative report.

The University will strive to complete the investigation within (i) sixty (60) calendar days from the date the Investigator is appointed or (ii) if, after the date the Investigator is appointed, the parties receive an amended notice of allegations that includes new allegations or new parties, sixty (60) calendar days from the date of the amended notice of allegations. This time frame may be extended depending on the circumstances of each case. See the section 11.6.2 Access to Information below for more information.

## **11.6.2 Access to Information**

The procedures in the formal process for all cases of Prohibited Conduct are the same through the investigation phase. Prior to providing access to information, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

### **11.6.2.1 Cases Involving Allegations of Title IX Sexual Harassment**

#### **11.6.2.1.1 Review of Directly Related Evidence**

For Formal Complaints involving allegations of Title IX Sexual Harassment, the parties will have an equal opportunity to inspect and review all evidence obtained as part of the investigation that

is directly related to the allegations raised in the Formal Complaint, including evidence on which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source. The Title IX Coordinator will send such evidence to each party and each party's advisor in electronic format or hard copy. The parties will have a ten (10) calendar day period to review the evidence and prepare a written response to the evidence (the "Evidence Response Statement"). Each party's Evidence Response Statement may not exceed 2,000 words in length. The Evidence Response Statement must be submitted to the Title IX Coordinator within the ten (10) calendar day period described above. The Evidence Response Statement may be used as an opportunity to clarify information contained in the directly related evidence, to present the party's viewpoint about whether the evidence directly related to the allegations is relevant and therefore whether it should be included in the investigative report, and to identify evidence previously provided to the Investigator that was not included in the directly related evidence which the party believes is directly related and relevant. While the parties may be assisted by their advisors in preparation of the Evidence Response Statement, the Evidence Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Parties may not address statements to one another in the Evidence Response Statement.

The parties and parties' advisors may use the evidence reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the evidence with any other individual. Prior to being provided the evidence obtained as part of the investigation that is directly related to the allegations, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms. A violation of this agreement may be subject to disciplinary action, up to and including termination or expulsion, as well as dismissal of an advisor.

The Title IX Coordinator will review the parties' Evidence Response Statements and may remove or redact any portions of the parties' Evidence Response Statements that exceed the word limit of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent or information subject to a legal privilege without a waiver).

The Investigator will consider the parties' Evidence Response Statements prior to completion of the investigative report. All the evidence made available for the parties' review will be available during the hearing.

#### 11.6.2.1.2 Review of Investigative Report

For Formal Complaints involving allegations of Title IX Sexual Harassment, the Title IX Coordinator will send the investigative report to each party and each party's advisor in electronic format or hard copy at least ten (10) days prior to the live hearing. The parties will have a five (5) calendar day period to review the investigative report and prepare a written response to the Report (the "Written Response Statement"). Each party's Written Response Statement may not exceed 2,000 words in length. The Written Response Statement must be submitted to the Title IX Coordinator within the five (5) calendar day period described above. The Written Response Statement may be used as an opportunity to clarify points in the investigative report, identify information previously given to the Investigator(s) that is not included in the investigative report



which the party believes should have been included, or raise other concerns regarding the evidence. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Parties cannot address statements to one another or submit new evidence in Written Response Statements.

The parties and parties' advisors may use the investigative report only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the investigative report with any other individual. Prior to being provided the investigative report, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms. A violation of this agreement may be subject to disciplinary action, including termination or expulsion, as well as dismissal of an advisor.

The Title IX Coordinator will review the parties' Written Response Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the Investigator(s) for clarification, additional investigation, and / or to have information removed or redacted from the investigative report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' Written Response Statements that exceed the word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the Complainant's prior sexual history if an exception does not apply).

#### **11.6.2.2 Cases Involving Allegations of Prohibited Conduct Other than Title IX Sexual Harassment and Retaliation and Interference with Process**

##### **11.6.2.2.1 Review of Investigative Report**

In cases involving allegations of Prohibited Conduct other than Title IX Sexual Harassment and Retaliation and Interference with Process, the Title IX Coordinator will provide a reasonable period for the Complainant and Respondent to have access to review the investigative report and prepare a response to the investigative report, which will generally be five (5) days.

Both parties will have equal opportunity to provide a written response to the Report (the "Written Response Statement"), which will not exceed 4,500 words in length, to the Title IX Coordinator. The Written Response Statement may be used as an opportunity to clarify points in the investigative report, identify information previously given to the Investigator that is not included in the investigative report which the party believes should have been included, identify questions a party believes the other party has not yet answered or evidence the other party has not explained, raise other concerns regarding the evidence, and to challenge the credibility of the other party and Witnesses. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Parties may not address statements to one another in the Written Response Statement.

The parties and parties' advisors may use the investigative report reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the report with any other individual. Prior to being provided the report, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms. A violation of this agreement may be subject to disciplinary action, including termination or expulsion, as well as dismissal of an advisor.

The Title IX Coordinator will review the Written Response Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the Investigator(s) for clarification, additional investigation, and / or to have information added, removed, or redacted from the investigative report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' written statements that exceed the word limit of the statements as set forth above or that otherwise exceed the scope of information that may be considered in the complaint resolution process (e.g., treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the Complainant's prior sexual history if an exception does not apply).

#### 11.6.2.2.2 Review of Other Party's Written Response Statement

The parties will have an opportunity to review the Written Response Statement submitted by the other party and, if desired, may submit a rebuttal statement (the "Written Rebuttal Statement"), not to exceed 2,500 words. The Title IX Coordinator will provide a reasonable period for the Complainant and Respondent to have access to review the other party's Written Response Statement and submit a Written Rebuttal Statement.

The Written Rebuttal Statement may only be used to respond to arguments made or concerns raised in the other party's Written Response Statement and to challenge the credibility of the other party and any Witnesses. While the parties may be assisted by their advisors in preparation of the Written Rebuttal Statement, the Written Rebuttal Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Parties cannot submit new evidence or address statements to one another in Written Rebuttal Statements.

The parties will have an opportunity to review the Written Rebuttal Statement submitted by the other party. The Title IX Coordinator will provide a two (2) calendar day period for the Complainant and Respondent to have access to review the other party's Written Rebuttal Statement. While the parties can review the other party's rebuttal statement, no further responses are permitted by either party.

The parties and parties' advisors may use the other party's written statements reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the written statements with any other individual. Prior to being provided the written statements, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms. A violation of this agreement may be subject to disciplinary action, including termination or expulsion, as well as dismissal of an advisor.

The Title IX Coordinator will review the Written Rebuttal Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the Investigator(s) for clarification, additional investigation, and / or to have information added, removed, or redacted from the investigative report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' written statements that exceed the word limit of the statements as set forth above or that otherwise exceed the scope of information that may be considered in the complaint resolution process (e.g., treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the Complainant's prior sexual history if an exception does not apply).

### **11.6.3 Adjudication**

Upon completion of the investigation, the Title IX Coordinator will compile the adjudication file which will be shared with the Title IX Hearing Officer(s) / Adjudicator(s). The parties will be given access to all information included in the adjudication file that the parties did not review.

#### **11.6.3.1 Cases Involving Allegations of Title IX Sexual Harassment**

Upon completion of the investigation in cases involving allegations of Title IX Sexual Harassment, the matter will be submitted to a Title IX Hearing Officer(s) to promptly and equitably hold a live hearing and to make a determination regarding responsibility.

##### **11.6.3.1.1 Appointment of the Title IX Hearing Officer(s)**

The Title IX Coordinator will designate an Adjudicator to serve as the Title IX Hearing Officer in matters involving a student Respondent. In matters involving an employee Respondent, the Deputy Title IX Coordinator from HR (in consultation with the Executive Vice President of HR) will appoint the Title IX Hearing Officer. Generally, the Title IX Hearing Officer will be the sole decision-maker in the matter, but the Deputy Title IX Coordinator from HR (in consultation with the Executive Vice President of HR) has discretion to appoint additional Adjudicators. The University reserves the right to appoint any trained individuals who are without conflict or bias to act as Title IX Hearing Officer(s). The Title IX Hearing Officer(s) will not be the Title IX Coordinator or the Investigator from the same matter. If any party has a concern that the Title IX Hearing Officer(s) has a conflict of interest or bias, the party should report the concern in writing as indicated in section 10.11 Conflicts of Interest above.

##### **11.6.3.1.2 Live Hearings**

At the live hearing, each party's advisor will be permitted to ask the parties and any Witnesses all relevant questions and follow-up questions, including those challenging credibility. Such questions will be conducted directly, orally, and in real-time by the party's advisor and will never be conducted by a party personally. Only relevant cross-examination and other questions may be asked of a party or Witness. Before a Complainant, Respondent, or Witness answers a question at the hearing, the Title IX Hearing Officer(s) must first determine whether the question is relevant and explain any decision to exclude a question as 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 conduct alleged by the Complainant in the

Formal Complaint, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove Consent.

All evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint will be made available at the hearing.

The hearing will generally be held by video-conference with the parties, Witnesses, and Title IX Hearing Officer(s) located in separate locations and technology enabling the Title IX Hearing Officer(s) and parties to simultaneously see and hear the party or the Witness answering questions. The University reserves the right to determine that a hearing will instead be conducted with all participants, including the parties, Witnesses, and the Title IX Hearing Officer(s) physically present in the same location. If the live hearing is held with the participants in the same location, at the request of either party, the University will provide for the parties to be located in separate rooms with technology enabling a real-time live hearing with participation by parties.

The University will create an audio or audiovisual recording, or transcript, of any live hearing.

#### 11.6.3.1.3 University Appointed Advisors

If a party does not have an advisor present at the live hearing, the University will provide an advisor to the party, without fee or charge to that party, to conduct cross-examination and other questioning on behalf of that party. If a party will not have an advisor present at the hearing, the party must inform the Title IX Coordinator at least three (3) calendar days prior to the live hearing so that the University may appoint an advisor for the hearing. The appointed advisor's role will be limited to relaying the party's questions to be asked of parties and Witnesses. The appointed advisor will not perform any function beyond relaying the party's desired questions. The University reserves the right to appoint any individual as the University deems appropriate to act as an advisor at a live hearing. The University's appointment of an advisor is final and refusal to work with an appointed advisor at the live hearing will forfeit the party's right to conduct cross-examination or other questioning.

#### 11.6.3.1.4 Live Hearing Procedures

More information about live hearing procedures is available on request to the Title IX Coordinator.

#### 11.6.3.1.5 Decision-Making Process

The presumption is that the Respondent is not responsible for a Policy violation. The Respondent will be deemed responsible for a Policy violation only if the Title IX Hearing Officer(s) concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the Respondent engaged in Prohibited Conduct.

The Title IX Hearing Officer(s) will not draw an inference about the determination regarding responsibility based solely on a party's or Witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Lie detector test results will not be considered credible by the Title IX Hearing Officer(s) in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the University or a court of law will generally be given little weight, if any, by the Title IX Hearing Officer(s) in the decision-making process.

If the Title IX Hearing Officer(s) determines that the Respondent is responsible for a Policy violation, typically the Title IX Hearing Officer(s) will determine what sanctions and remedies are warranted. The Title IX Coordinator has discretion to appoint a different sanctioning officer who is free of bias or conflict of interest, as the Title IX Coordinator determines appropriate.

As part of that determination of sanctions and remedies, the Title IX Coordinator may, in his or her discretion, provide the Title IX Hearing Officer(s) or different sanctioning officer with information regarding previous violations of the Policy or other University policies by the Respondent, if any. If such information is shared with the Title IX Hearing Officer(s) or different sanctioning officer, the parties will be notified and provided access to that information.

#### **11.6.3.2 Cases Involving Allegations of Prohibited Conduct Other than Title IX Sexual Harassment and Retaliation and Interference with Process**

Upon completion of the investigation in matters involving allegations of Prohibited Conduct other than Title IX Sexual Harassment and Retaliation and Interference with Process, the Title IX Coordinator will appoint appropriate Adjudicator(s) who are free of bias or conflict of interest. Typically, a single Adjudicator from OEC will be appointed, but the Title IX Coordinator has discretion to appoint additional Adjudicators.

The Adjudicator(s) will review the investigative report and file. The Adjudicator(s) may, in their discretion, seek additional information from the Investigator(s), the parties, or another individual, or request additional investigation by the Investigator(s). If such information is shared with the Adjudicator(s), the parties will be notified and provided access to that information.

The Respondent is presumed to be not responsible for violating this Policy. The Adjudicator(s) will use a “preponderance of the evidence” standard to determine whether there is sufficient evidence to conclude it is more likely than not that the Respondent violated the Policy.

Lie detector test results will not be considered credible by the Adjudicator(s) in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the University or a court of law will generally be given little weight, if any, by the Adjudicator(s) in the decision-making process.

If the Adjudicator(s) determine that the Respondent is responsible for a Policy violation, typically the Adjudicator(s) will impose remedies and / or sanctions as necessary to end the Prohibited Conduct, prevent its recurrence, and address its effects. The Title IX Coordinator has discretion to appoint a different sanctioning officer who is free of bias or conflict of interest, as the Title IX Coordinator determines appropriate.

As part of that determination of sanctions and remedies, the Title IX Coordinator may, in his or her discretion, provide the Adjudicator(s) with information regarding previous violations of the Policy or other University policies by the Respondent, if any. If such information is shared with the Adjudicator(s), the parties will be notified and provided access to that information.

#### 11.6.4 Sanctions and Remedies

If there is a finding of responsibility for a Policy violation, remedies and / or sanctions as necessary to end the misconduct, prevent its recurrence, and address its effects will be imposed.

When determining appropriate remedies and sanctions, the University reserves the right to take whatever measures deemed necessary in response to an allegation of Prohibited Conduct to protect the rights and personal safety of the Complainant and Liberty community members. Not all forms of Prohibited Conduct are deemed equally serious offenses, and different remedies or sanctions may be imposed based on the offense severity and any previous conduct violations.

Respondents who are found responsible for Prohibited Conduct under this Policy may face the following sanctions, as determined to be appropriate based on the circumstances:

- Verbal warning;
- Written reprimand;
- University probation;
- Points;
- Suspension, ranging from one (1) semester to five (5) years with possible reinstatement requirements determined by the University;
- Expulsion;
- Transcript notation;
- Withholding of diploma or degree for a defined period of time or until the completion of assigned sanctions;
- Temporary or permanent revocation of degree;
- Revocation of admission to Liberty;
- Temporary or permanent restricted access to areas of campus, and campus events, activities, organizations or courses;
- Temporary or permanent removal from class or living or housing assignment;
- Conditions upon presence on campus or at University events;
- Campus ban;
- No contact directive;
- Required attendance at an educational training, meetings, or program;
- Writing a reflection paper;
- Behavioral contract;
- Fine;
- Written apology;
- Required assessment, counseling, or recovery program;
- Community service hours;
- Loss of salary or benefit, such as travel funding;

- Suspension of promotion and salary increments ranging from one (1) semester to five (5) years, with possible reinstatement requirements required by the University;
- Removal or non-renewal of scholarships or honors;
- Transfer or change of job or responsibilities;
- Demotion;
- Termination of employment; and
- Payment of restitution or costs incurred.

When an investigation reveals that a campus organization (e.g., student club, athletic team, campus academic department, staff / faculty committee) has committed or promoted Prohibited Conduct, the organization may be sanctioned. Sanctions include, but are not limited to, loss of University privileges (including, but not limited to, prohibition on the organization's participation in certain activities and the use of University facilities), educational requirements for organization members, required additional oversight, and temporary or permanent loss of organization recognition and / or funding. All campus organizations / departments are responsible for the actions of its members when they are operating on behalf of the organization / department.

Remedies for the Complainant are designed to restore or preserve equal access to the University's education program or activity. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. Remedies, accommodations, and protective measures for the Complainant include implementing or extending remedial or protective measures, including, without limitation, the following examples:

- A mutual or one-sided no contact directive;
- Prohibiting an individual involved from being on University property;
- Prohibiting an individual involved from participating in University-sponsored events;
- Changing an individual's living or housing, or dining arrangements;
- Special parking arrangements;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts / safe ride services;
- Providing a temporary cell phone;
- Access to counseling (on- and / or off-campus, as appropriate);
- Making information about civil legal protective orders and restraining orders available<sup>15</sup>;
- Assistance identifying an advocate to help secure additional resources or assistance, including off-campus and community advocacy, support, and services.

Remedies designed to address the Liberty community include increased monitoring, supervision, and / or security at locations or in connection with activities where the Prohibited Conduct occurred or might reoccur, as well as targeted or broad-based educational programming or training.

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<sup>15</sup> See Appendix A.

The Title IX Coordinator is responsible for effective implementation of sanctions and remedies. The Title IX Coordinator may notify relevant administrative and academic offices, including the Financial Aid Office, the Registrar, HR, LUPD, the Dean of Students Office, and OCL, as appropriate and necessary to ensure that sanctions and remedies are implemented properly.

#### **11.6.5 Transcript Notations for Suspended or Expelled Respondent**

Pursuant to Virginia law, if a Respondent is found responsible for Sexual Assault or any other Sexual Misconduct that would meet the definition of Sexual Violence under Va. Code § 23.1-900 and a sanction of suspension or expulsion is imposed, the University will include a prominent notation on the Respondent's academic transcript stating: "[Suspended or Dismissed] for a violation of [Sexual Assault or other applicable Sexual Misconduct] under the Liberty University Sexual Misconduct Policy."

If a transcript notation is due to a suspension, the notation will be removed if the student: (1) has completed the term and conditions of the suspension and (2) has been determined by the University to be in good standing according to the University's code, rules, or set of standards governing such a determination. The removal of a transcript notation and / or return to good standing does not mean the student will necessarily be granted re-admission to the University. To the extent that any questions arise as to whether the above conditions have been met, those will be resolved at the discretion of the Title IX Coordinator and such matters will not be appealable.

Additionally, there is an expungement process to have the notation removed as set forth below. Except as noted above, the notation will not automatically be removed by the University.

The University will remove a notation for good cause shown after a period of three (3) years. To seek removal of the notation, the student must make a written request to the Title IX Coordinator. The written request should include any relevant information to show that good cause exists. Good cause for removal of the notation exists when: (i) the student has completed the term of and satisfied all sanctions and conditions related to the suspension or dismissal, (ii) three (3) calendar years have passed since the date on which the resolution process was finalized (as evidenced by the effective date of the sanctions), and (iii) there have been no additional conduct issues that would be Prohibited Conduct, whether at Liberty or at another institution or prosecuted under the law. The individual seeking removal of the notation must cooperate with any request for additional information from the Title IX Coordinator, including providing consent to the disclosure of information from other institutions or other sources. To the extent questions arise as to whether good cause exists, those are resolved at the discretion of the Title IX Coordinator and such matters will not be appealable.

#### **11.6.6 Notice of Determination**

The Complainant and Respondent will simultaneously receive written notice of the determination. The written notice will include the allegations potentially constituting Prohibited Conduct, a brief description of the procedural steps taken from the receipt of the Formal Complaint through the determination, findings of fact supporting the determination, conclusions regarding the application of the University's Policy to the facts, the determination regarding responsibility as to each allegation, any imposition of sanctions, whether remedies designed to restore or preserve equal



access to the education program or activity will be provided to the Complainant, and the rationales for the determination and sanctions (including how the evidence was weighed, how the information supports the result, and the standard of evidence applied). The written notice will also include information about the procedures and permissible bases for appeal, as set forth below, and when the result becomes final. In addition, the written notice shall include any other steps the University has taken to eliminate the conduct and prevent its recurrence.

The written notice of determination will generally be received within twenty-five (25) calendar days from the date the live hearing concluded or within twenty-five (25) calendar days from the date the Adjudicator(s) receive the adjudication file, depending on the type of Prohibited Conduct. In some cases, more time may be required.

The determination of the Title IX Hearing Officer(s) / Adjudicator(s) may be appealed as provided below. If no appeal is filed within the time periods prescribed below, the decision will be final and the sanctions, if any, will be effective.

#### **11.6.7 Dismissal of Formal Complaint Prior to Adjudication**

If the allegations in a Formal Complaint are initially included in the notice of allegations as allegations of Prohibited Conduct, but facts are gathered during the complaint resolution process that indicate the alleged conduct does not meet the definition of Prohibited Conduct, the University will dismiss the Formal Complaint as to those allegations. Even if a Formal Complaint or any allegations of Prohibited Conduct are dismissed, the University reserves the right to make a referral to the Office of Community Life or Human Resources, as the University determines appropriate, for their disciplinary processes.

In cases involving allegations of any Prohibited Conduct, the University may, at its discretion, dismiss the case prior to adjudication in certain circumstances. Circumstances that may lead to dismissal prior to adjudication, include, but are not limited to: the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein, the Respondent is no longer enrolled or employed by the University, or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

If the University dismisses a Formal Complaint, the University will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. A dismissal of a Formal Complaint, either before or after adjudication, may be appealed as provided below.

#### **11.6.8 Appeal**

Either the Complainant or the Respondent may appeal a decision to dismiss a Formal Complaint or any allegations therein, as discussed above in the section 11.6.7 Dismissal of Formal Complaint Prior to Adjudication. The parties may also appeal the Title IX Hearing Officer(s) / Adjudicator(s)' decision regarding responsibility.

Grounds for appeals are as follows:

- Procedural irregularity that affected the outcome of the matter;

- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator(s), or Title IX Hearing Officer(s) / Adjudicator(s) 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.

#### 11.6.8.1 Submitting an Appeal

Either party may request an appeal by submitting a written appeal statement, which may not exceed 2,000 words, challenging the outcome of the complaint resolution process. The written appeal statement must be submitted to the Title IX Coordinator within two (2) calendar days of receiving the notice of determination or notice of dismissal and must explain which of the above grounds the party is invoking for the appeal. While the parties may be assisted by their advisors in preparation of the appeal, the appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Failure to file a timely appeal constitutes a waiver of any right to an appeal. Parties cannot address statements to one another in their appeal statement.

The Title IX Coordinator will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered. The Title IX Coordinator may remove or redact any portions of the appeal statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution proceeding (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the Complainant's prior sexual history if an exception does not apply).

If the Title IX Coordinator determines that the appeal states a permissible ground for appeal, the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response in support of the outcome. Any written response from the non-appealing party in support of the outcome must not exceed 2,000 words and must be submitted to the Title IX Coordinator within two (2) calendar days of receiving notice of the appeal. While the party may be assisted by their advisors in preparation of the responsive appeal statement, the responsive appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Parties cannot address statements to one another in their appeal statement. The Title IX Coordinator will review any responsive appeal statement and may remove or redact any portions of the statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the Complainant's prior sexual history if an exception does not apply).

The Title IX Coordinator generally will compile an appeal file, which may consist of any information, documents, or other evidence that is provided to the Appeal Board. Such information will include, the written appeal statement, the responsive appeal statement, the notice of determination, the adjudication file in its entirety or in part, any previously undiscovered evidence

(if discovery of new evidence is a ground for the appeal), and any other information determined to be necessary for the Appeal Board's decision, at the Title IX Coordinator's discretion.

The appeal file will be made available for review by the Complainant and Respondent. The Title IX Coordinator will provide a reasonable period for the Complainant and Respondent to have access to review the appeal file, generally two (2) calendar days.

The parties and parties' advisors may use the appeal file reviewed at this step and any additional information reviewed during the consideration of the appeal (see below), only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the appeal file or additional information with any other individual. Prior to being provided access to the appeal file or any additional information, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms. A violation of this agreement may be subject to disciplinary action, including termination or expulsion.

Appeals will be considered by an Appeal Board comprised of one (1) or three (3) individuals appointed by the Title IX Coordinator. The University reserves the right to appoint any trained individual who is free of conflict of interest or bias to act as a member of the Appeal Board. The members of the Appeal Board will not be one of the Title IX Hearing Officer(s) / Adjudicator(s), the Investigator, or the Title IX Coordinator on the same matter. The parties will receive written notice of the Appeal Board appointed. If any party has a concern that a member of the Appeal Board has a conflict of interest or bias, the party should report the concern in writing as indicated in the section 10.11 Conflicts of Interest above.

#### **11.6.8.2 Consideration of Appeal**

The Appeal Board will not rehear the case, but will review the appeal file and consider whether it is more likely than not that the above-listed grounds for appeal have been satisfied. The Appeal Board may choose to meet with the parties and consider other additional information, in the Appeal Board's sole discretion. If the Appeal Board receives any additional information, the parties will have an opportunity to review and respond to the additional information.

If the Appeal Board determines that there is sufficient evidence to conclude that it is more likely than not that at least one (1) of the above grounds for appeal is satisfied, generally, the matter will be remanded for further investigation and / or deliberations by the Title IX Hearing Officer(s) / Adjudicator(s) and / or an additional live hearing, as determined by the Appeal Board to rectify the ground(s) found.

When the matter is remanded, the Appeal Board, in consultation with the Title IX Coordinator, will determine whether the matter should be remanded to the original Title IX Hearing Officer(s) / Adjudicator(s) or whether new Title IX Hearing Officer(s) / Adjudicator(s) should review the matter. The Appeal Board may not change Title IX Hearing Officer(s)' / Adjudicator(s)' determination of whether the Respondent was responsible or not responsible for a Policy violation. Only the Title IX Hearing Officer(s) / Adjudicator(s) reviewing the matter on remand from an appeal may change the determination of the original Title IX Hearing Officer(s) / Adjudicator(s) of whether the Respondent was responsible or not responsible for a Policy violation. If the reasons for remand relate to the investigation or warrant additional investigation, the Appeal Board, in

consultation with the Title IX Coordinator, will determine whether the matter should be remanded to the previous Investigator or whether a new Investigator should be appointed. Upon remand, the Investigator and Title IX Hearing Officer(s) / Adjudicator(s) will utilize the same process as required for all complaint processes under this Policy. If the matter is remanded, the determination made on remand will be appealable under the procedures discussed in this section.

If the Appeal Board determines that there is insufficient evidence to conclude that it is more likely than not at least one (1) ground for appeal have been satisfied, the Appeal Board will dismiss the appeal. This decision is final and is not appealable. If the Appeal Board dismisses the appeal, the sanctions, if any, will be effective on the date the Appeal Board's decision is communicated.

The Appeal Board will simultaneously issue to the parties a written decision describing the result of the appeal and the Appeal Board's rationale for the result. The University will strive to complete the appeal within twenty (20) calendar days following the Appeal Board's receipt of the appeal file from the Title IX Coordinator; however, in some cases, more time may be required.

Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under other grievance policies or processes.

## **12. COMPLAINTS OF RELATED MISCONDUCT AND RETALIATION AND INTERFERENCE WITH PROCESS**

Any complaint relating to violations of supportive / interim measures (including a no-contact directive), sanctions, the obligation to be truthful, the obligation to act in good faith, a non-disclosure agreement, or another Policy requirement other than Prohibited Conduct, as well as the following Prohibited Conduct: Retaliation and Interference with Process, should be reported promptly to the Title IX Coordinator. The University will, in the Title IX Coordinator's discretion, provide a prompt and equitable process for the resolution of such complaints.

This process is separate and distinct from the above complaint resolution process for Reports and Formal Complaints of Prohibited Conduct (Other than Retaliation and Interference with Process). The Title IX Coordinator will document the Report or Formal Complaint received, the process used, and the outcome. In instances where the outcome of the process results in a suspension longer than one (1) year, expulsion, or termination of employment, the impacted individual may appeal the decision in accordance with the appeal rights as set forth in this Policy. The University will notify the parties of the outcome.

## **13. RECORDKEEPING**

The Title IX Coordinator is responsible for maintaining the official University records of Reports and Formal Complaints. When a Report or Formal Complaint is pending, each official having a role in the response and resolution process is responsible for handling records appropriate to their role. When the process is complete, the official records will be provided to the Title IX Coordinator, who will maintain such records in accordance with the University's record retention requirements and applicable law. Records related to Reports and Formal Complaints of Prohibited Conduct will be treated as confidential and shared only on a need-to-know basis, as required or permitted by law, or to conduct a complaint resolution process.

**14. EXTERNAL REPORTING**

Inquiries / complaints may be directed to the U.S. Department of Education Office for Civil Rights:

The Office of Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Telephone: (800) 421-3481  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
<http://www.ed.gov/ocr>

**15. ANNUAL REVIEW**

This Policy is maintained by the University's Office of Equity and Compliance. The University will review this Policy at least annually. The review will consider evolving legal requirements, evaluate the supports and resources available to the Parties, and assess the effectiveness of investigation and resolution processes. This Policy does not create a contractual obligation on the part of the University. The University reserves its right to amend this Policy at any time and for any reason, including an informal amendment to ensure fairness in the processes and procedures set forth in this Policy. This Policy was last revised on September 30, 2022.

## **APPENDIX A: PROTECTIVE ORDERS AND UNIVERSITY NO-CONTACT DIRECTIVES**

Individuals who want to avoid contact with another have several options available, including seeking a protective order from a civil court or requesting a no-contact directive from Liberty.

### *Protective Orders*

Protective Orders are legal orders issued by a magistrate or judge to protect the health and safety of an abused person and his/her family or household members. To be eligible for a protective order, you must have been, within a reasonable period of time, subjected to an act involving violence, force, or threat that results in bodily injury or places you in reasonable fear of death, sexual assault, or bodily injury.

The University does not issue protective orders, but one can be obtained through making an application in court. The type of relationship you have (or had) with the person who is harming or threatening you determines where you can request a protective order. If that person is a family or household member (including a spouse, ex-spouse, parents, children, step-parents, step-children, siblings, half-siblings, grandparents, grandchildren, persons who have a child in common, in-laws who live in the same home, co-habitants, and those who have co-habited in the past year and their children) or if you or the person committing acts of violence or threatening behavior are under the age of 18, you can request a family abuse protective order through the Juvenile and Domestic Relations District Court. Staff in the intake office can provide additional information. All other requests for a protective orders (including dating partners who do not live together) should be made through the General District Court. The General District Court Clerk's Office can provide additional information.

Additional information can be found here: <http://vscc.virginia.gov/protective-orders-virginia-guide-victims-english.pdf>

The University is responsible for honoring requests for information about available options for protective orders and has a responsibility to comply with and enforce such orders. To request additional information about available options for protective orders, contact the Title IX Coordinator. A protective order can be enforced by contacting local law enforcement. The University will fully cooperate with any protective order issued by a criminal, civil, or tribal court.

### *University No Contact Directives*

A no contact directive is a University-issued directive that prohibits one or both parties from communication or contact with another. No contact directives may be mutual or one-sided. Generally, no contact directives issued prior to the conclusion of the complaint resolution process will be mutual and serve as notice to both parties that they must not have verbal, electronic, written, or third party communication with one another. To request a no contact directive from the University, individuals should contact the Title IX Coordinator.

A University-issued no contact directive is enforced by contacting LUPD or the OEC.

## **APPENDIX B: VIRGINIA CRIMINAL AND OTHER LEGAL DEFINITIONS**

### **Criminal Definitions**

Some of the conduct prohibited by the Policy may be a crime. Links to relevant Virginia criminal law definitions are provided below. The Virginia criminal law citations are provided for informational purposes only. The definitions set forth in section 6 Prohibited Conduct above will be used for all purposes under the Policy.

#### **Sexual Assault**

[Va. Code § 18.2-61](#) provides the criminal sexual assault definition. Criminal Sexual Assault includes: Engaging in sexual intercourse with a victim, whether or not his/her spouse, or causing a victim, whether or not his/her spouse, to engage in sexual intercourse with any other person and such act is: Against the victim's will, by force, threat, or intimidation of or against the victim or another person; Through the use of the victim's mental incapacity or physical helplessness; or With a child under the age of 13 years as the victim.

#### **Domestic Violence**

[Va. Code § 18.2-57.2](#) prohibits assault and battery against a family or household member.

#### **Dating Violence**

Virginia does not have a specific dating violence definition, but [Va. Code. § 18.2-57](#) prohibits assault and battery.

#### **Stalking**

[Va. Code § 18.2-60.3](#) provides the criminal stalking definition. A stalker is anyone who, on more than one occasion, engages in conduct directed at another person with the intent to place, or when the person knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member.

### **Other Definitions**

#### **Sexual Violence**

Va. Code § 23.1-806 (related to the Review Committee discussed in section 7.5 above) and Va. Code § 23.1-900 (related to transcript notations discussed above in sections 10.13 and 11.6.5) define sexual violence as physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.