

Policy: Equity Dispute Resolution Process

Approver: Executive Council

Reviewer(s): Faculty Senate

History:

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Related policies: Equal Opportunity, Nondiscrimination, Sexual and Other Forms of Harassment; Title IX Statement

Additional references: Faculty Handbook; Student Handbook

Responsible office(s): Administration and Finance Division / Office of Human Resources

Update cycle: Annual (prior to each academic year) or as required by federal or state laws

Next Update: June 2020

The University will act on any allegation of a violation of the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy that is received by the Title IX Coordinator. For the purpose of this process, all references to the Title IX Coordinator, except as otherwise qualified below, shall be understood to jointly reference the Executive Director of Human Resources and the Executive Director for Title IX and Clery Compliance who serve as the University's Title IX Co-Coordinators. For allegations involving students as the accused individual, the Vice Provost and Dean of Students, as a Deputy Title IX Coordinator, has primary responsibility for each of the steps defined in this process. For allegations involving faculty as the accused individual, the Associate Provost for Academic Affairs, as a Deputy Title IX Coordinator, has primary responsibility for each of the steps defined in this process. Therefore, in cases involving students as the accused individual, all references to the Title IX Coordinator in Sections 1-8 of this document will typically refer to the Dean of Students and the Associate Provost for Academic Affairs is referenced for cases involving faculty as the accused individual.

If circumstances require, the President or Title IX Coordinator may designate another person to oversee the process below, should an allegation be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

The procedures described below will apply to all allegations involving students, staff, administrators, or faculty. Redress and requests for responsive actions for allegations brought against non-members of the University community are also covered by these procedures.

1. Equity Discrimination Resolution Panel (EDRP)

Members of the EDRP are announced in an annual distribution of this policy to the University community. [Members of the EDRP are trained in all aspects of the discrimination process and can serve in any of the following roles, at the direction of the Title IX Coordinator:

- To provide sensitive intake and initial counseling of allegations
- To serve in a mediation role in conflict resolution
- To investigate allegations
- To act as advisers to those involved in allegations
- To serve on hearing panels for allegations, and
- To serve on appeal panels for allegations.

EDRP members also recommend proactive policies and serve in an educative role for the community. EDRP members receive annual training organized by the Title IX Coordinator, including a review of University policies and procedures so that they are able to provide accurate information to members of the University community. All EDRP members are required to attend annual training.

Panel members are usually appointed to three-year terms. Appointments to the EDRP should be made with attention to representation of groups protected by Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy. Individuals who are interested in serving on the EDRP are encouraged to contact the Title IX Coordinator.

2. Filing and or Reporting an Allegation or Incident

Students, staff, administrators, or faculty of the University who report that the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy may have been violated must report the allegation in accordance with the terms of that policy. All employees receiving reports of a possible violation of the policy are expected to promptly contact the Title IX Coordinator or one of the Deputy Coordinators.

Individuals are encouraged to report allegations promptly in order to maximize the University's ability to obtain evidence, and conduct a thorough, impartial investigation. Failure to report promptly may significantly limit the University's ability to investigate and provide resolution to a matter.

Under Texas law SB 212, University nonstudent employees who knowingly fail to report or who knowingly falsify a report with the intent to harm or deceive may be subject to criminal penalties and dismissal.

To meet the University's obligation under federal law, if the violation of policy includes crimes that must be reported under the Clery Act. A University employee making a report must also immediately notify the [Clery Compliance Coordinator](mailto:clery@stmarytx.edu) (clery@stmarytx.edu).

Reports may also be submitted on-line at the following [website](https://www.stmarytx.edu/compliance/title-ix/):
<https://www.stmarytx.edu/compliance/title-ix/>

3. Allegation or Incident Report Intake

Following receipt of an allegation or report, the Title IX Coordinator, or appropriate Deputy Coordinator, will make an initial determination as to whether a policy violation may have occurred and/or whether conflict resolution might be appropriate. If the allegation does not appear to allege a policy violation, or if conflict resolution is desired by the accusing party and appears appropriate given the nature of the alleged behavior, then the allegation does not proceed to investigation. However, a full investigation will be pursued if the Title IX Coordinator, in consultation with the Deputy Coordinator(s), determines there is evidence of a violation of the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy, a pattern of misconduct, or a perceived threat of further harm to the University or any of its students or employees. The University aims to complete the resolution process within a seventy-five (75) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties.

4. Interim Remedies

If, in the judgment of the Title IX Coordinator and in consultation with the Deputy Coordinator(s), the safety or well-being of any member(s) of the University community may be jeopardized by the presence on campus of the accused individual, the Title IX Coordinator (or designee) may implement interim remedies intended to address the short-term effects of harassment, discrimination, or retaliation, i.e., to redress harm to the alleged victim and the community and to prevent further violations. As it relates to safety determinations, these decisions will be made in consultation with the Chief of Police (or designee).

Interim measures should be individualized and appropriate, making every effort to avoid depriving any student of their education. These interim remedies may include, but are not limited to, referral to counseling and health services or to the Employee Assistance Program, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties, changes in work or housing locations, increased security and monitoring of certain areas of campus, curricular and co-curricular restrictions, interim suspension, and other similar accommodations.

In cases in which an interim suspension is imposed, the student, staff, or administrator will be given the opportunity to meet with the Title IX Coordinator prior to such suspension being imposed or as soon thereafter as reasonably possible to show cause why the suspension should not be implemented. During an interim suspension, alternative coursework options may be pursued to ensure as minimal an impact as possible on the accused student.

The Title IX Coordinator has sole discretion to implement or stay an interim suspension for a student, staff, or administrator under the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy, and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

For allegations involving faculty, the Provost and Vice President for Academic Affairs may interim suspend a faculty member, consistent with Section 2.8.7 of the *Faculty Handbook*, on the recommendation of the Title IX Coordinator, pending the completion of EDRP investigation and procedures.

5. Investigation

If the allegation appears to indicate a policy violation, or if conflict resolution is rejected by either the complaining or responding party or is inappropriate given the nature of the alleged behavior, or if the University, based on the alleged policy violation, wishes to pursue an allegation, then the Title IX Coordinator will appoint one or more EDRP members to conduct an investigation into the allegation, usually within five business days of determining that an investigation is warranted. If circumstances require, the Title IX Coordinator may designate an individual or individuals external to St. Mary's University to conduct the investigation. Once the Title IX Coordinator decides to open an investigation that may lead to disciplinary action against the responding party, written notice will be issued to the responding party of the allegation(s) constituting a potential violation, including sufficient details and with sufficient time to prepare a response before any initial interview with the investigator(s). Sufficient details may include the identities of the parties involved, the specific section of the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy allegedly violated, the precise conduct allegedly constituting the potential violation, and the date and location of the alleged incident. Each party will receive written notice in advance of any interview or hearing with sufficient time to prepare for meaningful participation. The respondent and complainant must respond to requests for information and/or interviews in a timely manner.

The investigation of allegations brought directly by those alleging harm will be completed expeditiously, normally within thirty (30) business days of Title IX Coordinator's determination that a policy violation may have occurred and conflict resolution is not appropriate. However, investigation may take longer when initial allegations fail to provide direct first-hand information and/or if additional time is needed to collect corroborating information and interview potential witnesses. Further, the University may undertake a short delay, typically ten (10) business days, to allow for evidence collection when criminal charges on the basis of the same behaviors that invoke this process are being investigated. University action will not be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, and impartial and will include interviews with relevant parties and witnesses, obtaining available evidence, and identifying sources of expert

information, if necessary. During an investigation, the appointed investigator(s) may consult with the Title IX Coordinator. Upon the completion of investigation, the investigator(s) will report their finding(s) and recommendation(s) to the Title IX Coordinator. The investigation will result in a written report summarizing all the relevant evidence, summaries of interviews and all supporting documentation. The complainant, respondent and appropriate officials will have timely and equal access to any information that will be used during formal disciplinary meetings and hearings.

6. Withdrawal or Resignation While Charges Pending

Students: The University will not permit a student to withdraw if that student has an allegation pending for violation of the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy or for charges under the Code of Student Conduct. Should a student decide to leave and not participate in the investigation and/or hearing, the process will nonetheless proceed in the student's absence to a reasonable resolution and the responding student will not be permitted to return to University unless all sanctions have been satisfied.

Employees: Should an employee resign while charges are pending, the records of the Title IX Coordinator will reflect that status. The Title IX Coordinator will act to promptly and effectively remedy the effects of the conduct upon the victim and the community

7. Allegation Resolution

The Title IX Coordinator will determine, based on the finding(s) and recommendation(s) of the investigative team, whether or not the preponderance of the evidence (i.e., whether it is more likely than not that the accused individual committed the alleged violation) supports a finding of a policy violation. If the Title IX Coordinator affirms that no policy violation has occurred, or that the preponderance of evidence does not support a finding of a policy violation, then the process will end unless the complainant requests that the Title IX Coordinator make an extraordinary determination to re-open the investigation or to forward the matter for a hearing. This decision lies in the sole discretion of the Title IX Coordinator.

If there is a preponderance of evidence of a violation, then the Title IX Coordinator may recommend conflict resolution, a resolution without a hearing, or a formal hearing, based on the below criteria.

a. Conflict Resolution

Conflict resolution is often used for less serious, yet inappropriate, conduct and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX Coordinator will determine if conflict resolution is appropriate based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, an EDRP member will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process,

though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate sanctions or corrective actions. Conflict resolution will not be the primary resolution mechanism used to address allegations of sexual assault or violent behavior of any kind, or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Coordinator believe that it could be beneficial. It is not necessary to pursue conflict resolution first in order to make a formal EDRP allegation, and anyone participating in conflict resolution can stop that process at any time and request a formal hearing.

b. Resolution Without a Hearing

When a responding party accepts the findings of the investigation, a resolution without a hearing can be pursued for any conduct that falls within the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy at any time during the process. The Title IX Coordinator will provide written notification of an allegation to any member of the University community who is accused of violating the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy. The accused individual may choose to admit responsibility for all or part of the alleged policy violations at any point in the process. If so, the Title IX Coordinator will find the individual in violation of the policy for the admitted conduct and will normally proceed to convene a formal hearing on any remaining disputed violations. For admitted violations, the Title IX Coordinator will recommend an appropriate sanction or responsive action. If the sanction or corrective action is accepted by both the complainant and respondent, the Title IX Coordinator will implement it, and act promptly and effectively to remedy the effects of the admitted conduct upon the victim and the community. If either party rejects the sanction or corrective action, an EDRP hearing will be held on the sanction or corrective action according to the EDRP procedures below.

c. Formal EDRP Hearing

For any allegations that are not appropriate for conflict resolution and that are not resolved without a hearing, the Title IX Coordinator will initiate a formal hearing.

8. Formal EDRP Hearing Process

a. Hearing Panels

The Title IX Coordinator will appoint a non-voting panel Chair and up to three members of the EDRP to the hearing panel. EDRP members who served as investigators will be witnesses in the hearing of the allegation and therefore may not serve as hearing panel members. Hearing panels may include both faculty and non-faculty staff with a least one faculty employee selected in an allegation against a faculty member.. The panel will meet at times determined by the Chair.

b. Notification of Charges

At least one week prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Chair will send a letter to the parties with the following information:

1. A description of the alleged violation(s), a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result;
2. The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
3. The parties may have the assistance of an EDRP member, or other adviser, at the hearing. The adviser may be a practicing attorney; however, the adviser may not represent or speak on behalf of the party or serve as a character reference during the hearing.
4. Hearings for possible violations that occur near or after the end of an academic term will be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University.

Once mailed, emailed to University-issued email address, or received in-person, notice will be presumptively delivered.

c. Hearing Procedures

EDRP Hearings will be convened, usually within one to two weeks of the completion of the investigation, and will be conducted in private. The Hearing Panel has the authority to consider all collateral misconduct, meaning that it hears all allegations of violations of the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy, but also may hear any additional alleged policy violations that have occurred in concert with the alleged conduct, even though those collateral allegations may not specifically fall within Hearing Panel's jurisdiction. Accordingly, investigations should be conducted with as wide a scope as necessary to fully investigate the accusations.

Participants will include the non-voting Chair, the members of the Hearing Panel, the investigator(s) who conducted the investigation on the allegation, the complainant and respondent, advisers to the parties, and any called witnesses.

The Chair will exchange the names of witnesses the University intends to call, pertinent documentary evidence, and written findings from the investigator(s) between the parties at least two business days prior to the hearing. In addition, the parties will be given a list of the names of

each of the Hearing Panel members at least two business days in advance of the hearing. Should either party object to any panelist, he/she must raise all objections, in writing, to the Chair immediately. Hearing Panel members will only be unseated if the Chair concludes that their reported bias precludes an impartial hearing of the allegation. Additionally, any panelist or Chair who feels he/she cannot make an objective determination must recuse himself or herself from the proceedings when notified of the identity of the parties and all witnesses in advance of the hearing.

The Chair, in consultation with the parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) during the hearing. All parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross-examination is not to be used by the parties. If alternative questioning mechanisms are desired, (screens, Skype, questions directed through the Chair, etc.), the parties must request them from the Chair at least two business days prior to the hearing.

Once the procedures are explained and the participants are introduced, the investigator(s) will present the report of the investigation first, and be subject to questioning by the parties and the Hearing Panel. The investigator(s) will be present during the entire hearing process, but only during deliberations at the request of the Chair. The findings of the investigation are not binding on the panel, though any undisputed conclusions of the investigation report will not be revisited, except as necessary to determine sanctions or corrective actions. Once the investigator(s) is questioned, the Hearing Panel will permit questioning of and by the parties and of any present witnesses. Questions may be directed through the panel at the discretion of the Chair.

Formal courtroom rules of evidence will not apply. Any evidence that the panel believes is relevant and credible may be considered, including history and pattern evidence. The Chair will address any evidentiary concerns prior to and/or during the hearing and may exclude irrelevant or immaterial evidence and may ask the panel to disregard evidence lacking in credibility. The Chair will determine all questions of procedure and evidence. Anyone appearing at the hearing to provide information will respond to questions on his/her own behalf.

Unless the Chair determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation(s) unless they show a pattern, or (2) the sexual history of or the character of the -complainant or respondent.

There will be no observers in the hearing. The Chair may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the panel or the parties involved. The panel will not hear from character witnesses but will accept up to two letters supporting the character of the individuals involved.

In hearings involving more than one respondent or in which two complainants have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly; however, the Title IX Coordinator may permit the hearing pertinent to each

respondent to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each respondent.

Proceedings are private. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings, subject to University consequences for failure to do so. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose and should discuss doing so with their advisers.

Hearings are recorded for purposes of review in the event of an appeal. Hearing Panel members, the parties and the persons who initiated the action, and appropriate administrative officers of the University will be allowed to listen to the recording as determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording. Persons given access to the recording will be required to sign an agreement confirming that they will protect the privacy of the information contained in the recording.

d. Decisions

The Hearing Panel will deliberate in closed session to determine whether the respondent is responsible or not responsible for the violation(s) in question. The panel will base its determination on a preponderance of the evidence (i.e., whether it is more likely than not that the respondent committed each alleged violation). If a respondent is found responsible by a majority of the panel, the panel will recommend appropriate sanctions to the Title IX Coordinator. The Chair will prepare a written deliberation report and deliver it to the Title IX Coordinator, detailing the panel's findings of fact, conclusions as to whether the facts support a finding of responsibility for the alleged violation(s), how each member voted, the information cited by the panel in support of its conclusions, and any information the Hearing Panel excluded from its consideration and why. The report shall include any recommended sanctions and the rationale for such sanctions. This report must be submitted to the Title IX Coordinator within five (5) business days of the end of deliberations.

The Title IX Coordinator will notify the respondent and complainant of the final determination within two (2) business days of receipt of the deliberation report. This notification will include any initial, interim, and/or final decision of the University, any sanctions imposed by the University, and the rationale for the result and the sanctions. Such notification, along with notification of the University's procedures to appeal, shall be simultaneously provided in writing to both parties. The notification may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

9. Sanctions and Corrective Actions

Sanctions or corrective actions will be determined by the Hearing Panel. Factors considered when determining a sanction or corrective action may include:

- The nature, severity of, and circumstances surrounding the violation.
- An individual's disciplinary history.
- Previous allegations or allegations involving similar conduct.
- Any other information deemed relevant by the Hearing Panel.
- The need for sanctions or corrective actions to bring an end to the conduct.
- The need for sanctions or corrective actions to prevent the future recurrence of similar conduct.
- The need to remedy the effects of the conduct on the victim and the community.

a. Student Sanctions

One or more of following sanctions and corrective actions may be imposed upon any student for any violation of the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy or the *Code of Student Conduct*. **On inquiry, the Office of the Vice Provost for Student Development and Dean of Students may -- as permitted by law and/or with consent of the student -- release information regarding conduct records and sanctions to employers, licensing agencies, certifying boards, graduate programs, government background inspectors, and transferor institutions.**

- i. *Warning*: A written notice will be sent to the student(s) who violated University policies and/or rules. It specifies that inappropriate and unacceptable actions have occurred and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the University.
- ii. *Restitution*: Compensation for damage caused to the University or any person's property. This is not a fine but, rather, a repayment for property destroyed, damaged, consumed, or stolen.
- iii. *Fines*: Reasonable fines may be imposed.
- iv. *Community/University Service Requirements*: For a student to complete a specific supervised university service.
- v. *Loss of Privileges*: The student will be denied specified privileges for a designated period of time.
- vi. *Confiscation of Prohibited Property*: Items whose presence is in violation of University policy will be confiscated and will become the property of the University.

- vii. *Behavioral Requirement*: This includes required activities such as, but not limited to, seeking academic counseling or substance abuse screening, writing a letter of apology, etc.
- viii. *Educational Program*: Requirement to attend, present or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- ix. *Restriction of Visitation Privileges*: May be levied on residential or non-resident student. The parameters of the restriction will be specified.
- x. *University Housing Probation*: The student is put on official notice that, should further violations of Residence Life or University policies occur during a specified probationary period, the student may immediately be removed from University housing. Regular probationary meetings may also be imposed.
- xi. *University Housing Reassignment*: The student is reassigned to another University housing facility. Residence Life personnel will decide on the reassignment details.
- xii. *University Housing Suspension*: The student is removed from University housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to University housing may be specified. Under this sanction, a student is required to vacate University housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Housing and Residence Life. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for University housing, the student must gain permission from the Director of Housing and Residence Life (or designee).
- xiii. *University Housing Expulsion*: The student's privilege to live in, or visit, any University housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.
- xiv. *University Probation*: The student is put on official notice that, should further violations of University policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
- xv. *Eligibility Restriction*: The student is deemed "not in disciplinary good standing" with the University for a specified period of time. Specific limitations or exceptions may be granted by the Director of Judicial Affairs and Community

Education and terms of this conduct sanction may include, but are not limited to, the following:

1. Ineligibility to hold any office in any student organization recognized by the University or hold an elected or appointed office at the University; or
 2. Ineligibility to represent the University to anyone outside the University community in any way including: participating in the study abroad program, attending conferences, or representing the University at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
- xvi. *University Suspension:* The student is separated from the University for a specified minimum period of time, and upon the satisfaction of specific conditions, after which the student is eligible to return. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the Director of Judicial Affairs and Community Education. This sanction may be enforced with a trespass action as necessary. **This sanction may be noted as a Conduct Suspension on the student's official academic transcript.**
- xvii. *University Expulsion:* The student is permanently separated from the University. The student is barred from being on campus and the student's presence at any University-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary. **This sanction will be noted as a Conduct Expulsion on the student's official academic transcript.**
- xviii. *Other Sanctions:* Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Director of Judicial Affairs and Community Education or designee.

b. Staff Sanctions

Sanctions and corrective actions for staff who has engaged in conduct violating the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy include, but are not limited to, verbal and written warning, required counseling, demotion, suspension with pay, suspension without pay, and dismissal, in accordance with the terms of Section 5.0 Separation from Employment in the University's Personnel Manual.

c. Faculty Sanctions

Sanctions and corrective actions for faculty who have engaged in conduct violating the Equal Opportunity, Nondiscrimination, Sexual Harassment, and Other Forms of Harassment Policy will be consistent with Sections 2.8.6 and 2.8.7 of the *Faculty Handbook*.

10. Appeals

All appeals must be submitted in writing to the Title IX Coordinator within three (3) business days of the delivery of the decision pursuant to Section 7 or Section 8.d. A two-member panel of the EDRP, designated by the Title IX Coordinator that was not involved in the allegation previously, will consider student, staff, and administrator appeal requests. Faculty appeals will be conducted consistent with Section 2.16 of the *Faculty Handbook*, with results of the appeal reported to the Title IX Coordinator.

Any party may appeal, but appeals are limited to the following:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions fall outside the range of sanctions, if any, the University has designated for this offense. If no range of sanctions is specified, sanctions may be appealed on the basis that they are disproportionate to the severity of the violation(s).

The original finding and sanction or corrective actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. When any party requests an appeal, the other party (parties) will be notified and joined in the appeal. The party requesting the appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately.

Additional principles governing the hearing of appeals include the following:

- Investigative and hearing determinations are presumed accurate. To successfully rebut this presumption, a showing of clear error to the investigation must be demonstrated, making changes to the finding only where there is clear error
- Sanction determinations are presumed accurate. To successfully rebut this presumption, a showing of clear error to the sanction must be demonstrated, making changes to the finding only where there is clear error.
- Appeals are not intended to be full re-hearings of the allegation. Appeals are confined to a review of the investigator report, written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. Appeals granted

based on new evidence should normally be remanded to the original Hearing Panel for reconsideration. [Other appeals may be remanded at the discretion of the Title IX Coordinator, in consultation with the Deputy Coordinator(s), or heard by the three-member panel of the EDRP.]

- Sanctions imposed are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The Appeals Panel will prepare a written statement and deliver it to the Title IX Coordinator, detailing the determination of the Panel, how each member voted, the information cited by the Appeals Panel in support of its recommendation, and any information the Panel excluded from its consideration and why. This report should not exceed two pages in length and must typically be submitted to the Title IX Coordinator within five (5) business days of the end of deliberations.
- The Title IX Coordinator will normally render a written decision on the appeal to all parties within seven (7) business days from receipt of the Appeal Panel's statement.
- All parties must be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.
- Once an appeal is decided, sanctions that make a student ineligible to return to St. Mary's University for a reason other than an academic or financial reason will be noted on the student's University transcript.
- Once an appeal is decided, the outcome is final; further appeals are not permitted.

11. Failure to Complete Sanctions or Comply with Corrective Actions

All individuals found responsible for violating the Non-discrimination, Equal Opportunity, Sexual and Other Forms of Harassment Policy are expected to comply with conduct sanctions or corrective actions within the time frame specified by the Title IX Coordinator. Failure to follow through on conduct sanctions or corrective actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions or corrective actions and/or suspension, expulsion, or termination from the University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

12. Records

In implementing this policy, records of all allegations, resolutions, and hearings will be kept by the Title IX Coordinator for seven (7) years from the time of their creation except for those cases involving separation from the University, which will be maintained indefinitely. Expulsions will be noted indefinitely.

13. Statement of Complainant's Rights

- To be treated with respect by University officials.
- To take advantage of campus support resources (such as the Student Counseling Center, the Office of the Chaplains, and the Student Health Center for students, or EAP services for staff)

- To experience a safe living, educational, and work environment.
- To have an adviser during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To have allegations heard in a timely manner and in substantial accordance with these procedures.
- To full participation of the complainant in any EDRP process whether the complainant is serving as the accusing party or the University is serving as accusing party.
- To be informed in writing of the outcome/resolution of the allegation, sanctions where permissible, and the rationale for the outcome where permissible.

14. Statement of Respondent's Rights:

- To be treated with respect by University officials.
- To take advantage of campus support resources (such as Student Psychological and Testing Services, the University Chaplains, and Student Health Services for students, or EAP services for staff).
- To have an adviser during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To have allegations heard in a timely manner and in substantial accordance with these procedures.
- To be informed of the outcome/resolution of the allegation and the rationale for the outcome, in writing.

15. Revision

These procedures will be reviewed and updated annually by the Title IX Coordinator. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. However, the Title IX Coordinator, in consultation with the Deputy Coordinator(s), may also vary procedures materially with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this procedure. Procedures in effect at the time of its implementation will apply. Policy in effect at the time of the offense will apply even if the policy is changed subsequently, unless the parties consent to be bound by the current policy.