



2022 – 2023

Title IX Policy

Hampton University – 2022-2023

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Hampton University
Policy and Procedures on Sexual Discrimination and Misconduct
(Title IX)

I. Policy Statement and Non-Discrimination policy

Hampton University adheres to all federal, state, and local civil rights laws prohibiting discrimination in employment and education. Hampton University does not discriminate in its admissions practices [except as permitted by law], in its employment practices, or in its educational programs or activities on the basis of age, sex, pregnancy, sexual orientation, gender identity, race, color, creed, religion, disability, genetic information, national origin, military or veteran status or for engaging in protected activity.

This policy extends to all students and employees and applicants for admission and/or employment. Further, it extends to all programs and activities supported by the University; including the Undergraduate College, College of Continuing Education, the Graduate College, University sponsored study abroad and University sponsored internships.

Hampton University of federal financial assistance for education activities, Hampton University is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex/gender. Sex includes sex stereotypes, sex, gender identity, gender expression, sexual orientation, and pregnancy or parenting status.

Hampton University also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process internal or external to the institution. Sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by the Hampton University Title IX policy.

Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, social access, opportunities and/or benefits of any member of the Hampton University community on the basis of sex is in violation of the *Policy and Procedures on Sexual Discrimination and Misconduct (Title IX Policy)*.

Any person may report sex discrimination, in person, by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator. A report may be made at any time (including during non-business hours) by logging on to www.hamptonu.edu/titleix/ then clicking the “Report an Incident” from the menu at the top of the page on the right.

Questions regarding Title IX, including its application and/or concerns about noncompliance should be directed to the Title IX Coordinator or the following individuals who have been designated to handle inquiries regarding the University's policies prohibiting discrimination based on sex in accordance with Title IX of the Education Amendments of 1972 ("Title IX"):

Kelly Harvey Viney, J.D.

Title IX Coordinator
Wigwam Bldg. – Room 205
(757) 727-5426

kelly.harvey-viney@hamptonu.edu

Terri Haskins

Title IX Specialist
Wigwam Bldg. – Rm 205
(757) 727-5426

terri.haskins@hamptonu.edu

Kori Harris

Title IX Investigator
Wigwam Bldg- Rm 205
(757) 727-5426

kori.harris@hamptonu.edu

For other inquiries concerning the University's policy on nondiscrimination or to make a complaint of discrimination, please contact:

Students

Alecander Whitfield
Dean of Students
2nd Floor Student Center
Hampton, VA 23668
(757) 757-5303

alecander.whitfield@hamptonu.edu

Employees

Rikki R. Thomas
Director of Human Resources
53 Marshall Avenue
Hampton, VA 23668
(757) 727-5250

rikki.thomas@hamptonu.edu

A person may also file a complaint with the appropriate federal, state, or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be the federal Equal Employment Opportunity Commission (EEOC), the Office for Civil Rights (OCR) of the U.S. Department of Education, the Department of Justice, and/or the Virginia Employment Commission.

Inquiries concerning the application of the Title IX regulations also may be referred to the Assistant Secretary for Civil Rights:

Assistant Secretary for Civil Rights
Office for Civil Rights, National Headquarters
U.S. Department of Education
Lyndon Baines Johnson Dept. of Education Building
400 Maryland Avenue, SW Washington, DC 20202-1100
Phone: 800-421-3481
Fax: 202-453-6012
TDD: 800-877-8339
Email: OCR@ed.gov

For a complete copy of the Title IX policy or for more information, please visit www.hamptonu.edu/titleix/ or contact the Title IX Coordinator.

II. To Whom This Policy Applies

This policy applies to all students who are registered to take classes at Hampton University; all University employees including full-time and adjunct faculty; full-time, part-time and temporary staff; and contractors, vendors, visitors, guests and third parties.

This policy applies to conduct that takes place on the campus of Hampton University, at University sponsored events (including academic, social and athletic events), and University sponsored internships. This policy may apply to off-campus conduct and to any actions that occur online if the Title IX Coordinator determines the conduct falls within the scope of Title IX and policies pertaining thereto.

The purpose of this policy is the prohibition of sexual harassment and retaliation in Hampton University programs, and it is further designed to help the University comply with the following statutes:

- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities,
- the Violence Against Women and Department of Justice Reauthorization Act of 2005,
- the Higher Education Act of 1965, and
- the Clery Act, each as amended.

When an alleged violation of this policy is reported, the allegations are subject to resolution using Hampton University's Formal Grievance Process as determined by the Title IX Coordinator.

III. Title IX Office

The Title IX Coordinator oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating Hampton University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment, and retaliation prohibited under this policy.

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and its procedures, may be made internally to:

Kelly Harvey Viney, J.D.
 Title IX Coordinator
 Wigwam Bldg. – Room 205
 (757) 727-5426
kelly.harvey-viney@hamptonu.edu

Terri Haskins
 Title IX Specialist
 Wigwam Bldg. – Rm 205
 (757) 727-5426
terri.haskins@hamptonu.edu

Kori Harris
 Title IX Investigator
 Wigwam Bldg- Rm 205
 (757) 727-5426
kori.harris@hamptonu.edu

Responsibilities of the Title IX Coordinator:

- Oversees compliance with Title IX at Hampton University;
- Responds to and investigates all sexual discrimination, harassment and misconduct complaints, to include analysis of policy, determination of violation, and the filing of detailed reports;
- Informs students and employees on the options of filing a formal complaint through the Title IX Office and/or filing a criminal or civil complaint;
- Implements interim safety measures. This may include, but is not limited to, alternative housing arrangements, academic adjustments, no contact orders and referral to campus and local resources;
- Meets with students, faculty and staff to provide training and education on Title IX and the policies, procedures and services at Hampton University;
- Evaluates requests for confidentiality;
- Works with the appropriate University departments, offices or divisions to accommodate persons seeking services and support under Title IX, including counseling and health center services, campus safety measures with the University Police Department, and if necessary, the Director of Testing Compliance and Disability Services, and the Office of the Chancellor and Provost for pregnancy related medical accommodations and academic accommodations;
- Coordinates with local agencies to meet the support needs of persons seeking redress under Title IX, to include Transitions Family Violence Services, the Center for Sexual Assault Survivors, appropriate area law enforcement agencies, and area hospitals.

Responsibilities of the Title IX Specialist:

- Coordinates with the Title IX Coordinator on compliance and training on Title IX policies at Hampton University;
- Provides administrative support to the Title IX Coordinator on projects and initiatives involving Title IX at Hampton University and in the community;
- Educates University employees, students, faculty and staff on Title IX policies and procedures at Hampton University;
- Provides resources and publications to faculty, staff and students to help in educating the University community about Title IX; and
- Updates the Hampton University community on changes to the Title IX policies and regulations from the state and federal government.

Responsibilities of the Title IX Investigator:

- Reports to the Title IX Coordinator and assists in resolving complaints of sexual misconduct, sexual harassment, sexual assault, gender-related violence including stalking, dating violence and domestic violence involving undergraduate and graduate students, faculty and staff at the University;
- Identifies University policies and/or Student Conduct Code provisions relevant to a complaint;
- Conducts a prompt, equitable and impartial administrative investigation into complaints;
- Provides information to students, employees and others regarding the Title IX Policy and other University policies related to discrimination, harassment and sexual conduct;
- Creates and facilitates training/presentations to students and other campus constituencies regarding the University's Title IX policies and processes; and
- Develops and maintain relationships with campus and community partners. Collaborates with on and off campus resources including law enforcement and victim services in resolving complaints and works with the Title IX Coordinator to ensure that the University's processes, responses, and policies are consistent with federal and state laws and regulations related to compliance.

IV. Jurisdiction

This policy applies to the educational programs and activities of Hampton University, to conduct that takes place on the campus or on property owned or controlled by Hampton University, at Hampton University-sponsored events, or in buildings owned or controlled by Hampton University's recognized student organizations. **The Respondent must be a member of Hampton University's community in order for its policies to apply.**

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Hampton University's educational program. Hampton University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial Hampton University interest.

Regardless of where the conduct occurred, Hampton University will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial Hampton University interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;

- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of Hampton University.

If the Respondent is unknown or is not a member of the Hampton University community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Further, even when the Respondent is not a member of the Hampton University community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

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

All vendors serving Hampton University through third-party contracts are subject to the policies and procedures of their employers.

V. **Prohibited Conduct and Definitions**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the Commonwealth of Virginia regard Sexual Harassment as an unlawful discriminatory practice.

The following definitions further explain the conduct prohibited under this policy and are applicable regardless of gender, sexual orientation or gender identification.

Hampton University has adopted the following definition of Sexual Harassment.

A. **Sexual Harassment**

Sexual Harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as conduct on the basis of sex or conduct that is sexual that satisfies one or more of the following:

1. *Quid Pro Quo* – When an employee of Hampton University, conditions the provision of an aid, benefit, or service of Hampton University on an individual's participation in unwelcomed sexual conduct.
2. *Sexual Harassment* - unwelcomed conduct, determined by a reasonable person, to be so severe, and pervasive, and, objectively offensive, that it effectively denies a person equal access to Hampton University's education program or activity.

B. Other

1. *Sexual assault* is defined as:
 - a. **Forcible Sex Offenses** - Any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent. Sexual acts include:
 - (1) Forcible Rape - Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
 - (2) Forcible Sodomy- Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - (3) Sexual Assault with an Object - The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - (4) Forcible Fondling - The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - b. **Non-forcible Sex Offenses:**
 - (1) Incest - Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by the Commonwealth of Virginia law.
 - (2) Statutory Rape - Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 18 years old.
2. *Dating Violence* - Is defined as violence, on the basis of sex, committed by a person, who is in or has been in a social relationship or a romantic or intimate nature with the Complainant. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse, determining the existence of such a relationship based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating Violence does not include acts covered under the definition of domestic violence.

3. *Domestic Violence* – Is defined as - violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the Commonwealth of Virginia, or by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of the Commonwealth of Virginia.
4. *Stalking* - Is defined as engaging in a course of conduct, on the basis of sex, directed at a specific person, that would cause a reasonable person to fear for the person’s safety, or the safety of others; or suffer substantial emotional distress. For the purposes of this definition:
 - a. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
 - b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
 - c. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Hampton University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension, expulsion or termination, for any offense under this policy.

C. Force, Coercion, Consent and Incapacitation

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

1. **Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.
2. **Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

3. **Consent:** is knowing, voluntary, and clear permission by word or action to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on Hampton University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

4. **Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent. It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

In May of 2020, the U.S. Department of Education issued new regulations for colleges and universities that address sexual assault and other sexual misconduct. These regulations cover specific forms of sexual misconduct. To comply with these regulations, Hampton University has revised its existing policy for those types of misconduct. All conduct not covered under the current definition of sexual harassment, including sexual misconduct, will be addressed by the Title IX Office in the same manner as conduct and alleged actions that fall under the Title IX definition of sexual harassment.

Hampton University is addressing current and previous actions covered under Title IX to help support and affirm a campus community that rejects all forms of sexual misconduct.

VI. Confidentiality and Privacy

Every effort is made by the Title IX Office to preserve the privacy of reports. For the purpose of this policy, privacy and confidentiality have distinct meanings.

- A. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical care, mental health providers, counselors, and clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. Hampton University has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see page below. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when:
1. the individual gives written consent for its disclosure;
 2. there is a concern that the individual will likely cause serious physical harm to self or others; or
 3. the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities.
- B. **Privacy** means that information related to a complaint will be shared with a limited number of Hampton University employees who are on a need to know basis in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in Hampton University's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in Hampton University’s Student Records Policy. The privacy of employee records will be protected in accordance with Human Resources policies.

- C. **Non-identifiable information** may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

The Title IX Office will not share the identity of any individual who has made a report or complaint of harassment or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sexual harassment or retaliation, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Hampton University reserves the right to determine which officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Information will be shared as necessary with Investigators, the Sexual Discrimination and Misconduct Committee, witnesses, the parties, and their advisors. The individuals with this knowledge will guard its dissemination to preserve the parties’ rights and privacy.

The Title IX Office may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

VII. Resources and Reporting Options

Under Title IX, it is the responsibility of the University to ensure that students are not denied the benefit of or limited in participating in any University education program or activity on the basis of sex. Hampton University has an obligation to respond to reports and notifications of sexual violence.

A. Confidential Resources

A Confidential Resource has no requirement to report incidents of sexual discrimination, harassment or violence. Below is a listing of Confidential Resources with their contact information:

Hampton University Student Counseling Center	(757) 727-5617
Hampton University Student Health Center	(757) 727-5315
Hampton University Chaplain	(757) 727-5340

B. Community Resources

For help after Sexual Assault

- Center for Sexual Assault Survivors (757) 599-9844

For help after Dating or Domestic Violence

- Transitions Family Violence Services (757) 722-2261

C. Emergency Resources

Area Hospitals

- Riverside Regional Emergency/Trauma Center (757) 594-2050
- Sentara Careplex Emergency Room (757) 736-2010

Law Enforcement

- City of Hampton Police Division (HPD) 911
 - Non-Emergency number (757) 727-6111
- Hampton University Police Department (HUPD) (757) 727-5300

Hampton University

- Title IX Office
- Responsible Employees
- HUPD

D. Reporting Options

The University is committed to fostering a safe environment for victims of sexual discrimination, sexual harassment, sexual violence and retaliation, and is committed to offering help and support. Victims are encouraged to report incidents of sexual harassment, or retaliation.

1. HUPD

At Hampton University, students can report these incidents directly to the Title IX Office or the Hampton University Police Department (HUPD).

2. Responsible Employee

Students may also confide in faculty and staff members at the University. Those members have been deemed Responsible Employees and can receive reports on sexual violence from students, but are expected to contact the Title IX Office to report the incident revealed by the student.

A Responsible Employee is a University employee who, upon receiving information regarding an act of sexual violence involving a student, is responsible for contacting the Title IX Office to provide the details on the information they received in a memorandum to the Title IX Coordinator. The memorandum should contain the details revealed by the student and should be forwarded promptly to the Title IX Coordinator.

- a. A Responsible Employee is an Official with Authority at the University, and includes faculty, administration, the Hampton University Police Department, Title IX Coordinator, Title IX Specialist, Title IX Investigator, the Dean of Students, and the Dean of Residence Life. All have authority or a duty to respond and/or report sexual discrimination, sexual harassment, sexual violence and retaliation to the Title IX Coordinator.
- b. The University requires Responsible Employees, who in the course of their employment obtain information that an act of sexual discrimination, harassment and/or misconduct or retaliation has occurred against a student attending the University on campus, in or on a non-campus building or property used or controlled by the University, or University-controlled facility, to report the incident promptly to the University's Title IX Coordinator.
- c. In addition, Hampton University also encourages anyone who is or knows someone who has been a victim of sexual violence and/or misconduct to report promptly the incident to the Hampton University Police Department (HUPD). Any criminal investigation will be separate and distinct from any investigation undertaken in accordance with Title IX. A criminal complaint and investigation may run simultaneously with a Title IX complaint and investigation.
- d. Pursuant to the Clery Act, the University is required to disclose statistics of certain crimes, including sexual offenses, violations of drug, liquor, or weapons laws, and hate crimes that result in an arrest or disciplinary referral.

E. Amnesty

The Hampton University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes Complainants or witnesses are hesitant to report to the Title IX Office or participate in grievance processes because they fear that they may be in violation of certain policies at Hampton University, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the Hampton University community that Complainants choose to report misconduct to the Title IX Office, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

In support of a Complainant and witness who participate in the complaint process, Hampton University may offer parties and witnesses amnesty from other student conduct policies at the University and violations of those policies, such as underage consumption of alcohol or the use of illicit drugs, related to the incident. This determination will be made by the Vice President for Administrative Services and other appropriate University

Administrators. Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

Hampton University maintains a policy of amnesty for students who offer help to others in need and pursuant to state law (*VA Code § 23.1-808*).

F. Failure to Comply

When a Complainant, Respondent or witness is contacted by the Title IX Coordinator or other appropriate University official requesting an interview for the purposes of carrying out a Title IX investigation, students are expected to comply. Failure to comply, by not responding to inquiries to make an appointment with the Title IX Coordinator for an interview or scheduling an appointment, but failing to show up, will result in student sanctions pursuant to the Student Code of Conduct Policy on Personal Honesty and Integrity. (*See Sanctions*)

G. False Allegations

Reporting deliberately false or malicious allegations under this policy is a serious offense. If proven to be false, the party found guilty of making false allegations will be subject to appropriate University disciplinary action.

VIII. Receipt of Formal Notice/Complaint

A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the Hampton University Title IX Office investigate the allegation(s).

A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information below. The Formal Complaint is the document filed by a Complainant and means a document or electronic submission by email that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the Title IX Office at Hampton University investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

A. Filing a Formal Notice

Notice or complaints of sexual harassment and/or retaliation may be made using any of the following options:

- i. File a complaint with, and/ or give verbal notice to the Title IX Office:

Kelly Harvey Viney, J.D.

Title IX Coordinator

Wigwam Bldg- Rm 205

(757) 727-5426

kelly.harvey-viney@hamptonu.edu

Terri Haskins

Title IX Specialist
 Wigwam Bldg. – Rm 205
 (757) 727-5426
terri.haskins@hamptonu.edu

Kori Harris

Title IX Investigator
 Wigwam Bldg- Rm 205
 (757) 727-5426
kori.harris@hamptonu.edu

Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address listed for the Title IX Coordinator and Title IX Office staff above.

- ii. Reports also can be filed with the Hampton University Police Department (HUPD). Anonymous reports will not be accepted. Hampton University tries to provide supportive measures to all Complainants, which is not possible with an anonymous report.

B. Intake Interview

Following the filing of a written, formal complaint with the Title IX Office, an intake interview is scheduled with the Complainant and a Title IX Investigator to review the allegations in the formal complaint. At the intake interview, the investigator will describe the purpose of the intake interview and detail their role as an impartial fact finder and provide an overview of the Title IX policy, procedures and processes. This includes an explanation of a party's rights in the administrative process, the choice of options to pursue the complaint, and resources available.

The Investigator will offer Supportive Measures as appropriate to the specific complaint, and coordinate with the Title IX Coordinator for implementation. A party will be advised about their right to an Advisor through the investigative process and at the final hearing proceeding and the appointment of an advisor by the university if no one is available. Additionally, a detailed description of how evidence is collected, potential witness interviews, the writing of the investigative report and its review by the parties prior to its dissemination to the Sexual Discrimination and Misconduct Committee will be provided. These steps are afforded to both parties involved in a Title IX complaint.

There will be no unauthorized audio or video recording of any kind permitted during the intake interview or investigation meetings. Only Investigator(s) can use audio and/or video recording for the interviews.

C. Supportive Measures

The Title IX Office will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate to the parties to restore or preserve access to Hampton University's education program or activity. It includes measures designed to protect the safety of all parties or

Hampton University's educational environment, and/or deter sexual harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties at the Intake Interview. At the time that supportive measures are offered, the Title IX Office will inform the Complainant, in writing, that they may file a formal complaint with the Title IX Office either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The Title IX Office will maintain the privacy of the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures and will act to ensure as minimal an academic/ occupational impact on the parties as possible.

Hampton University will implement measures in a way that does not unreasonably burden the other party. These actions may include, but are not limited to:

- Referral to the Student Counseling Center, the Student Health Center, and/or other healthcare services
- Referral to community-based service providers
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing No Contact Orders between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

D. Emergency Removal

Hampton University can act to remove a student Respondent entirely or partially from its educational programs or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

This safety and risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Assessment Team (BAT) at Hampton University using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice

of the action by the Behavioral Assessment Team (BAT) and an opportunity to challenge the decision immediately following the removal. The student may file a written request following an emergency removal based on the notice given by the Behavioral Assessment Team to demonstrate why his or her continued presence on campus does not constitute a direct threat to the safety of person or property. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived.

There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Behavioral Assessment Team to review the determination of the Emergency Removal.

Where the Respondent is an employee, existing policies in the Faculty and Staff Handbooks are applicable.

E. Complaints of Sexual Violence and the Sexual Assault Threat Assessment Team

Any complaint involving sexual violence will be forwarded to the Title IX Office who will convene the Sexual Assault Threat Assessment Team, following an initial assessment by the Title IX Coordinator. Per state law, the complaint will be reviewed and a determination will be made as to whether disclosure to local law enforcement is warranted.

Pursuant to the Code of Virginia § 23.1-806, the **Sexual Assault Threat Assessment Team** (“Team”) shall:

1. Consist of three (3) members with representatives from the Title IX Office, Student Affairs, and the HUPD who will review all information relating to acts of sexual violence. The Threat Assessment team may obtain law enforcement records, criminal history records, health records, institutional conduct or personnel records and any other known facts or information on record and known to the university or law enforcement.
2. Upon receipt of a complaint involving sexual violence, convene within 72 hours to review the information relating to the complaint of sexual violence and determine if the incident, circumstances or the parties involved are a threat to the health and/or safety of the campus at large.
3. If the Team determines there is no threat, the Title IX Coordinator continues the investigation into the incident and comports with the mandates and timeline as outlined in the University policy.
4. If the Team determines there IS a threat, the HUPD representative on the Team will disclose and route the information to the City of Hampton Police Division who is responsible for investigating the act of sexual violence.
5. When such disclosure is made to local law enforcement, the Title IX Coordinator shall notify the Complainant of the disclosure in writing.

IX. Informal Resolution

Informal Resolution

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

The Title IX Coordinator may facilitate the informal resolution of a complaint between the parties, provided the following conditions are met:

- All parties voluntarily agree to participate in an informal resolution after full disclosure of the allegations and their options for a formal investigation, and,
- The Title IX Coordinator concludes that the particular Title IX complaint is appropriate for informal resolution.

The Informal Resolution can include the following:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures **only** to remedy the situation (usually at the request of the Complainant).
- When all parties voluntarily agree to resolve the matter through participation in an Informal Resolution.

You must file a formal complaint first in order to pursue an Informal Resolution and any party participating in the Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing the Informal Resolution, the Title IX Office will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in or violating such a process.

The Title IX Office will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding. At no time will the parties be pressured into participating in an Informal Resolution. Failure to abide by the Informal Resolution agreement may result in appropriate disciplinary actions by Student Affairs. Results of complaints resolved by Informal Resolution are not appealable.

X. Formal Grievance Process

Hampton University will act on any formal notice/complaint of violation of the Title IX Policy that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures.

A. Procedures

The procedures below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined

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above) involving students, staff, administrators, or faculty members.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Title IX Policy will be addressed through procedures described in the student, faculty, and staff handbooks.

1. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps needed to be taken.

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

- a. Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
- b. An informal resolution (upon submission of a formal complaint); and/or
- c. A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

Hampton University uses the Formal Grievance Process to determine whether or not the Title IX Policy has been violated. If so, the Title IX Office will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, or their effects.

2. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator engages in an initial assessment, typically within one to five business days.

The steps in an initial assessment can include the following:

- a. When notice is given, the Title IX Coordinator will determine if the Complainant wishes to file a formal complaint, and will assist them in doing so.
- b. If the Complainant does not wish to file a formal complaint, the Title IX Coordinator determines whether to initiate a complaint based on a violence risk assessment which indicates an immediate or compelling threat to the health and/or safety of individuals or the campus community.
- c. Supportive Measures provided by the Title IX Coordinator to the parties.
- d. Ensuring the parties are aware of the right to have an Advisor.
- e. Work with the Complainant to determine which of the following three options is preferred; supportive measures and a remedial response, an informal resolution option, or a formal investigation and grievance process is preferred.

- i. If a **supportive and remedial response** is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assess the request, and implement accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
- ii. If an **informal resolution** option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, and will seek to determine if the Respondent is also willing to engage in informal resolution.
- iii. If a **Formal Grievance Process** is preferred, the Title IX Coordinator will initiate the formal investigation and grievance process. The Title IX Coordinator may dismiss the complaint after reviewing the Title IX Policy and the conduct covered therein.

3. **Dismissal of a Complaint (Mandatory and Discretionary)**

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

- a. Hampton University **must** dismiss a formal complaint or any allegations if, at any time during the investigation or hearing, it is determined that:
 - i. The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proven; and/or
 - ii. The conduct did not occur in an educational program or activity controlled by Hampton University (including buildings or property controlled by recognized student organizations), and/or Hampton University does not have control of the Respondent; and/or
 - iii. The conduct did not occur against a person in the United States; and/or
 - iv. At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of Hampton University.
- b. Hampton University **may** dismiss a formal complaint or any allegations if, at any time during the investigation or hearing:
 - i. Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations; or
 - ii. The Respondent is no longer enrolled in or employed by Hampton University; or

- iii. Specific circumstances prevent Hampton University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, Hampton University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

4. Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations to the Respondent upon commencement of the Formal Grievance Process. This written notice will help facilitate the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The Notice of the Investigation and Allegations is also copied to the Complainant, who is to be given advance notice of its delivery to the Respondent.

- a. The Notice of Investigation and Allegations will include:
 - A meaningful summary of all of allegations,
 - The identity of the involved parties (if known),
 - The precise misconduct being alleged,
 - The date and location of the alleged incident(s) (if known),
 - The specific policies implicated,
 - A description of the applicable procedures,
 - A statement of the potential sanctions/responsive actions that could result,
 - A statement that the Hampton University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
 - A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
 - A statement about Hampton University's policy on retaliation,
 - Information about the privacy of the process,
 - Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
 - A statement informing the parties that Hampton University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
 - Details on how the party may request disability accommodations during the interview process, and
 - An instruction to preserve any evidence that is directly related to the allegations.
- b. Amendments and updates to the Notice of Investigation and Allegations may be made as the investigation progresses and more information becomes available.

- c. Notice will be made in writing and may be delivered: in person, mailed to the local or permanent address of the parties as indicated in official Hampton University records, or emailed to the parties' Hampton University issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

5. **Right to an Advisor**

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available. The Advisor must have the time to take on the role for the party, and, cannot have any conflicts or conflicting roles at the University. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process), but Hampton University permits each party to have an advisor and a support person.

a. **Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with throughout the resolution process.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

b. **Advisor's Role**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

c. **Advisors in Hearings/Hampton University-Appointed Advisor**

Under U.S. Department of Education regulations under Title IX, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, Hampton University will appoint an Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, Hampton University will appoint an Advisor who will do so. Extensive questioning of the parties and witnesses may also be conducted by the Sexual Discrimination and Misconduct Committee during the hearing.

d. **Advisor Violations of Hampton University Policy**

All Advisors are subject to the same Hampton University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings.

Advisors should not address university officials in a meeting or interview unless invited to do so. The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, or during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview.

Advisors are expected to comply with university rules and the university has the right to remove an advisor who violates the rules. Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

e. **Sharing Information with the Advisor**

Hampton University expects that the parties may wish to have the Title IX Office share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish.

Hampton University also provides a Non-Disclosure Agreement (NDA) form that authorizes the university to share such information directly with their Advisor. The parties must complete and submit this form to the Title IX Coordinator before Hampton University is able to share records with an Advisor.

The NDA limits an Advisor's use and disclosure of these sensitive materials and information as the records associated with Title IX and Hampton University's grievance process may be subject to the Family Educational Rights and Privacy Act (FERPA) and may be considered confidential under Title IX. The evidence, information, and/or materials contained within the Investigation Report in any form, by any means of conveyance, in the role as an Advisor **may only be used for purposes directly related to the grievance resolution process,**

which includes the hearing before the Sexual Discrimination and Misconduct Committee (SDMC). Dissemination and/or disclosure of these materials to any non-involved third parties and/or the public is strictly prohibited.

If a party requests that all communication be made through their attorney Advisor, **Hampton University will not comply with that request.**

f. **Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Hampton University. Hampton University may seek to restrict the role or disqualify any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Hampton University's privacy expectations.

Any unauthorized use, dissemination, or disclosure of these materials will result in the dismissal as an Advisor, and could result in being permanently barred from serving as an advisor in institution proceedings. Subject to the Hampton University Faculty Handbook (October 2017), it could lead also to disciplinary action and/or code of conduct charges against the advisee based on an Advisor's misconduct, for which they are responsible, up to and including expulsion or termination. Advisors may also be civilly liable to other parties for breach of privacy or public revelation of private facts.

g. **Expectations of an Advisor**

Hampton University generally expects an Advisor to adjust their schedule to allow them to attend Hampton University meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

h. **Expectations of the Parties with Respect to Advisors**

The parties are expected to inform the Title IX Investigator(s) of the identity of their Advisor within five (5) calendar days after the initial intake interview.

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time.

i. **Advisor Roles**

Under U.S. Department of Education regulations under Title IX, Hampton University must make an advisor available for any party that does not have an advisor at the hearing.

Any Hampton University advisor is trained annually in all aspects of the resolution process.

The role of the Advisor during a live hearing is limited to posing questions on behalf of their party. The Advisor and their party will collaborate in the review of evidence and formulation of questions to be posed to the opposing party during the live hearing. The parties involved in the formal complaint will provide written permission for the Title IX Office (please see Section XI (5)(e) above) to share the investigative report and any relevant information from the case file to prepare questions for the live hearing with the Sexual Discrimination and Misconduct Committee (SDMC).

6. Investigation Timeline

Investigations are completed normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Hampton University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

7. Delays in the Investigation Process

The Title IX Office may take a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The Title IX Office will communicate in writing the delay and reason to the parties and provide the parties with status updates if necessary. The Title IX Office will promptly resume its investigation and resolution process as soon as feasible. During such a delay, Title IX Office will implement supportive measures as deemed appropriate.

8. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviewing all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, (not necessarily in this order):

- Determine the identity and contact information of the Complainant.
- In coordination with campus partners and the Title IX Coordinator, initiate or assist with any necessary supportive measures,
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated.
- Conduct a prompt initial assessment to determine if the allegations indicate a potential policy violation.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, and intended investigation timeframe
- Prepare the initial Notice of Investigation and Allegation
 - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool of Advisors or an Advisor of their choosing present for all meetings attended by the party.
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Allow each party the opportunity to suggest witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Exhibits including relevant physical or documentary evidence will be included
 - The Investigator(s) gather and assess evidence, **but do not make conclusions, do not engage in policy analysis, and do not render recommendations as part of their report**
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured ~~electronic~~ or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct. Including evidence upon which Hampton University does not intend to rely in reaching a determination, for a ten (10) calendar day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days.

- Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (i.e., Complainant, Respondent, Complainant’s Advisor, Respondent’s Advisor).
- The Investigator(s) will incorporate the parties’ written responses into the final investigation report as an exhibit, and will include any additional relevant evidence provided by the parties, and finalize the report.
- The Investigator(s) shares the report with the Title IX Coordinator for their review and feedback
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure hard copy at least ten (10) calendar days prior to a hearing.

9. Final Hearing Proceedings

Final Hearing Proceedings are private. All persons present at any time during the Final Hearing Proceedings are expected to maintain the privacy of the hearing in accordance with Hampton University policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose in accordance with the Non Disclosure Agreement. Hampton University encourages parties to discuss any sharing of information with their Advisors before doing so.

10. Resolution Timeline

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

XI. The Sexual Discrimination and Misconduct Committee (SDMC)

The Sexual Discrimination and Misconduct Committee (SDMC) is charged with adjudicating all Title IX matters following the investigative process conducted by the Title IX Office. This committee has been deemed the decision-makers and is the committee that adjudicates the formal, live hearing on alleged Title IX matters at Hampton University.

Following receipt of the Investigative Report from the Title IX Coordinator, the Sexual Discrimination and Misconduct Committee will schedule a date and time for the formal hearing with the parties to adjudicate the matter.

A. Notice of Hearing

No less than ten (10) calendar days prior to the hearing, the Chair of the SDMC will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

1. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions that could result.
2. The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
3. Any technology that will be used to facilitate the hearing.
4. Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Chair of the SDMC at least five (5) business days prior to the hearing.
5. Information on how the hearing will be recorded and on gaining access to the recording for the parties after the hearing.
6. A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will be considered by the Decision-maker(s).
7. Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the Hampton University will appoint one. **Each party must have an Advisor present.** There are no exceptions.
8. An invitation to contact the Chair of the SDMC to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
9. Notice that the parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the Hampton University and remain within the 60-90 business day goal for resolution. A student facing charges under this Policy is not in good standing to graduate.

B. Hearing Procedures

At the hearing, the Sexual Discrimination and Misconduct Committee has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual harassment and/or retaliation, even though those collateral allegations may not specifically fall within the Policy.

Participants at the hearing will include the Chair and additional SDMC members, the parties, Advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf. The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Sexual Discrimination and Misconduct Committee and the parties and then be excused.

C. Order of the Hearing

At the beginning of the hearing, the Chair explains the procedures and introduces the participants. Participants include the members of the Sexual Discrimination and Misconduct Committee (SDMC), other university officials who may be in attendance in an authorized role, the parties who are the subject of the hearing, witnesses, Advisors, and individuals involved in the logistics and technical facilitation of the hearing. The Chair will conduct the hearing according to the hearing script.

D. Testimony and Questioning

The parties and witnesses may provide statements and relevant information beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Sexual Discrimination and Misconduct Committee and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor will pose the proposed questions orally, and the proceeding will pause to allow the Chair to consider the relevancy, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective, but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or the Sexual Discrimination and Misconduct Committee at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or preserve them for appeal. If bias is not an issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

E. Refusal to Submit to Cross

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the SDMC **may** rely on any prior statement made by that party or witness at the hearing (including those contained in the investigative report) in the ultimate determination of responsibility.

The SDMC may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If a party's Advisor of choice refuses to comply with Hampton University's established rules of decorum for the hearing, Hampton University may require the party to use a different Advisor and if necessary, Hampton University may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

F. Recording Hearings

Hearings (but not deliberations) are recorded by the SDMC for purposes of posterity and for review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

G. Standard of Proof

The SDMC will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The **Preponderance of the Evidence** is the standard of proof used.

The Chair will then prepare a written deliberation statement and deliver it to the appropriate administrator, for:

- Faculty – Dr. JoAnn Haysbert
Chancellor and Provost,
- Staff – Mrs. Doretha J. Spells
Vice President for Business Affairs & Treasurer
- Students – Dr. Barbara Inman
Vice President for Administrative Services.

The written statement will detail the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions and/or recommendations.

H. Notice of Outcome

Using the deliberation statement, the Chair is to prepare a Notice of Outcome. The Chair will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within seven business days of receiving the SDMC's deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification

will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Hampton University records, or emailed to the parties' Hampton University-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the SDMC from the receipt of the Investigative report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the Hampton University is permitted to share such information under state or federal law; any sanctions issued which Hampton University is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to Hampton University's educational or employment programs or activities, to the extent Hampton University is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by Hampton University to be final, any changes that occur prior to finalization, and the relevant procedures and basis for any available appeal options.

I. Appeals

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator within three (3) days of the delivery of the Notice of Outcome from the SDMC.

A three-member Appeals Committee chosen and appointed by the President of Hampton University will be designated to review the appeal. No one previously involved in the Hearing process or the investigation can participate in this phase of the process (if an appeal is chosen).

The Request for Appeal will be forwarded to the Appeals Committee for consideration to determine if the request meets the grounds for appeal.

a. Grounds for Appeal

An Appeal is not an opportunity to provide a rehearing on the matter that led to the appeal. A Request for Appeal is limited to the following grounds:

1. *Procedural irregularity* that affected the outcome of the matter;

2. *New evidence that was not reasonably available* at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had *a conflict of interest or bias* for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the threshold in this Policy, that request will be denied by the Appeal Chair and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal are met, then the Appeals Committee will notify both parties, their Advisors, the Title IX Coordinator, and, the members of the Sexual Discrimination and Misconduct Committee by mail, email, and/or provided a hard copy of the request with the approved grounds. The appealing party will then be given seven (7) business days to submit a response. All responses will be forwarded by the Appeals Committee to all parties for review and comment.

Neither party may submit any new requests for appeal after this time period. The Appeals Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeals Panel, and the Panel will render a decision in no more than seven (7) business days, barring exigent circumstances. All decisions [are by majority vote] and apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the Hampton University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the Hampton University is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' Hampton University-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

b. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing will be temporarily suspended during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If the original sanctions include separation in any form, Hampton University may place a hold on official transcripts, diplomas, graduations, and course registration

pending the outcome of an appeal.

a. Appeal Considerations

Appeals are not intended to provide a rehearing of the allegations. Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.

Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.

The Appeals Committee may consult with the Chair of the SDMC on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.

Appeals granted based on new evidence should normally be remanded to the SDMC for reconsideration.

Once an appeal is decided, the outcome is final! Further appeals are not permitted.

XII. Retaliation

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

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

A determination of responsibility will be determined by the Sexual Discrimination and Misconduct Committee.

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

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

XIII. Sanctions

A. Definition of Penalties:

The following definitions are established in order that penalties may be clearly understood:

- i. **Warning:** Notice, orally or in writing, that continuation or repetition of misconduct, within a period of time stated in the warning, may be cause for more severe disciplinary action.
- ii. **Disciplinary Probation:** Exclusion from participation in privileged or co-curricular institution activities as set forth in the notice for a period of time not exceeding one school year.
- iii. **Censure:** A written reprimand for violation of specified regulations, including the possibility of more severe disciplinary sanctions in the event of being found in violation of any university policy within a specified period of time.
- iv. **Interim (Immediate) Suspension:** Suspension pending a hearing upon the recommendation of the Sexual Assault Threat Assessment Team of imminent danger to person or property on the campus. In such cases, a hearing will be held as soon as practicable.
- v. **Suspension (Indefinite/Contingent):** The exclusion of a student from the University for an unspecified or specified period of time.
- vi. **Suspension, held in abeyance:** A disciplinary measure imposed for violation of University policy that warrants separation, but in which some merit is found to allow the student to continue academic work only, or while further investigation or review of other evidence is being done. Failure to follow prescribed restrictions during any period of abeyance or additional violations of university policies will result in the immediate imposition of separation from the university up to and including expulsion.
- vii. **Expulsion:** Permanent separation from the University. The student is not permitted to enroll or matriculate at any time.
 - NOTE: A student who is suspended or expelled from Hampton University is denied any privileges of the University during the period specified.
 - Notification of such action will be in writing.
 - The student will be given no longer than 24 hours to remain on campus without written permission from the Vice President for Administrative Services.
 - This policy also applies to academic suspension or expulsion.

XIV. Transcript Notation

In accordance with Virginia Code §23.1-900, the Registrar shall include a prominent notation on the academic transcript of each student who has been suspended for, has been permanently dismissed for, or withdraws from the institution while under investigation for an offense involving sexual violence. Such notation shall be substantially in the following form: “[Suspended, Dismissed, or Withdrew while under investigation] for a violation of Hampton University’s policy for sexual discrimination, harassment and/or misconduct.”

A. Notification of Transcript Notation

Hampton University shall notify each student that any such suspension, permanent dismissal, or withdrawal will be documented on his or her academic transcript.

Transcript notation determinations are made by the Vice President for Administrative Services.

B. Removal of Transcript Notation

The University shall remove from a student’s academic transcript any notation placed on the transcript if the student is subsequently found not to have committed the offense involving sexual violence under the University’s Sexual Discrimination and Misconduct Policy, or has completed the term of the suspension and any conditions thereof.

Following verification of the above, the transcript notation will be removed following a determination by the University that the student is in good standing according to the University’s standards and policies.

XV. Education, Prevention and Awareness Programs

Hampton University is committed to the education, ongoing training, and awareness of its Sexual Discrimination and Misconduct Policy and prevention of the specified prohibited conduct on campus. Training, awareness campaigns and related education programs are provided to new and returning students, new and returning faculty and staff, and other specific campus populations biannually and on an as needed basis by the Title IX Office.

A. Awareness Campaigns

- ***Red Flag Campaign*** -
Held during the Fall semester during the month of October which is Domestic Violence Awareness Month.
- ***Denim Day*** –
Held in the Spring semester and commemorates and celebrates survivors of sexual assault during the month of April which is Sexual Assault Awareness Month.

B. Keep S.A.F.E. Education Platform

- *Keep S.A.F.E.* stands for “*Keep Sexual Assault & Abuse From Everyone*.” This is the education platform that all awareness campaigns and related education programs fall under within the Title IX Office.

C. Online Course

- The “*Keep S.A.F.E. Online Course on Sexual Assault and Abuse*” is provided to all incoming Freshman during a training module in the class University 101 (UNV 101).

D. Training

- Training is provided to new and returning students, new and returning faculty and staff, and other specific campus populations biannually and on an as needed basis by the Title IX Office.

XVI. Record Keeping

The Hampton University Title IX Office will maintain for a period of at least seven (7) years all records pertaining to:

- Every Title IX Office investigation including the audio or video recording or transcript required under federal regulation;
- Any Informal Resolution the result therefrom;
- Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, and
 - If no supportive measures were provided to the Complainant, Hampton University must document the reasons for its conclusion and that its response was not deliberately indifferent. Then Hampton University must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- Any disciplinary sanctions imposed on the Respondent (as determined by the SDMC);
- Any remedies provided to the Complainant designed to restore or preserve equal access to Hampton University’s education program or activity;
- Any appeal and the results therefrom (as determined by the Appeals Committee); and
- All materials used to train Title IX Coordinators, Investigators, and Decision-makers and any person who facilitates an informal resolution process. The Title IX Office will make these training materials publicly available for inspection by members of the public on the Title IX Office website.

Hampton University will also maintain any and all records in accordance with state laws.

XVII. Annual Review and Revision of this Policy and Procedures

The Hampton University Title IX Policy is reviewed and updated annually by August 1st. In accordance with State and Federal Law, the policy is vetted by the Office of the General Counsel for appropriate legal requirements.

Additionally, the Title IX Coordinator must annually certify to the State Council of Higher Education for Virginia (SCHEV) that a review and update, as appropriate, of the sexual violence policies at the University was completed (*Va. Code §23.1-808*).

This Policy and procedures supersede any previous policy addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. Hampton University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change the requirements that impact this document, this document will be construed to comply with the most recent government regulations or holdings.

This Policy and procedures per the Department of Education are effective August 14, 2020.

XVIII. Athletics

Beginning in the academic school year 2022-2023, the NCAA Board of Governors is requiring all member schools to abide by its new and updated rules that address sexual violence prevention on campus.

A. New NCAA Requirements

The NCAA Board of Governors adopted the following policies that every member institution is expected to follow:

1. Intercollegiate athletics departments should be informed on and integrated in overall campus policies and processes addressing sexual and interpersonal violence prevention and acts of sexual violence, particularly those related to adjudication and resolution of matters related to sexual and interpersonal violence.
2. Intercollegiate athletics departments should review annually the most current Checklist Recommendations of the NCAA.
3. Intercollegiate athletics programs should utilize their platform to serve as leaders on campus through engagement in and collaboration on efforts to support campus-wide sexual and interpersonal violence prevention initiatives. This includes involving student-athletes in prevention efforts in meaningful ways across the campus, including encouraging use of leadership roles on campus to support such efforts.

B. NCAA Attestation Requirements

Each university chancellor/president, director of athletics and campus Title IX coordinator must attest annually that:

1. The athletics department is informed on, integrated in, and compliant with institutional policies and processes regarding sexual violence prevention and proper adjudication and resolution of acts of sexual and interpersonal violence.
2. The institutional policies and processes regarding sexual violence prevention and adjudication, and the name and contact information for the campus Title IX coordinator, are readily available within the department of athletics, and are provided to student- athletes.
3. All student-athletes, coaches and staff have been educated each year on sexual violence prevention, intervention and response, to the extent allowable by state law and collective bargaining agreements.
4. All incoming, continuing and transfer student-athletes have completed an annual disclosure related to their conduct that resulted in discipline through a Title IX proceeding or in a criminal conviction for sexual, interpersonal or other acts of violence. Transfer student-athletes also must disclose whether a Title IX proceeding was incomplete at the time of transfer. Failure to make a full and accurate disclosure could result in penalties, including loss of eligibility to participate in athletics as determined by the member institution.
5. Institutions have taken reasonable steps to confirm whether incoming, continuing and transfer student-athletes have been disciplined through a Title IX proceeding or criminally convicted of sexual, interpersonal or other acts of violence. In a manner consistent with federal and state law, all NCAA member institutions must share relevant discipline information and incomplete Title IX proceedings as a result of transfer with other member institutions when a student-athlete attempts to enroll in a new college or university.
6. An institution choosing to recruit an incoming student-athlete or accept a transfer student- athlete must have a written procedure that directs its staff to gather information that reasonably yields information from the former institution(s) to put the recruiting institutional leadership on notice that the student left the institution with an incomplete Title IX proceeding, was disciplined through a Title IX proceeding or has a criminal conviction for sexual, interpersonal or other acts of violence. Failure to have it written and to gather information consistent with that procedure could result in penalties.

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