

LIFE UNIVERSITY
SEXUAL MISCONDUCT POLICY AND
PROCEDURES

I. INTRODUCTION

(a) Notice of Nondiscrimination.

As a recipient of federal funds, Life University is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* (“Title IX”), which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, sexual misconduct constitutes sexual discrimination prohibited by Title IX. Inquiries concerning the application of Title IX may be referred to Life University’s Title IX Coordinator or to the U.S. Department of Education’s Office for Civil Rights. Life University’s Title IX Coordinator is Ms. Leigh Parker, whose office is located in the Administrative Offices, 1250 Life’s Way, Marietta, Georgia 30060. Ms. Parker may be contacted by phone at (770) 426-2686 or by email at TitleIX@life.edu or Leigh.Parker@life.edu. Questions may also be directed to a Deputy Title IX Coordinators. Their names and contact information are listed below.

(b) Life’s Commitment to Addressing Sexual Misconduct.

Life University reaffirms the principal that its students, administration, faculty and staff have a right to be free from sexual misconduct. Sexual misconduct can occur in many forms, including, but not limited to, sexual harassment, non-consensual sexual contact (or attempts to commit same), non-consensual sexual intercourse (or attempts to commit same), rape, sexual violence, intimate partner violence, sexual exploitation, and stalking. Sexual misconduct is prohibited by this policy, as well as federal law. Life will take seriously every allegation or report of sexual misconduct received. The University will not tolerate sexual misconduct and wants to make clear that sexual misconduct is reprehensible in any situation.

II. SCOPE OF POLICY

This Policy applies when an allegation of sexual misconduct involves a student or student employee. The allegation may be against another student, an employee of the University (which includes University faculty) or a third party, regardless of where the alleged sexual misconduct occurred, if the conduct giving rise to the complaint is related to the University’s academic, educational, athletic, or extracurricular programs or activities, or had the continuing effects on campus or in an off-campus education program or activity. The University’s disciplinary authority, however, may not extend to respondents or alleged perpetrators who are not students or employees of the University. Additionally, although there is no geographical limitation to invoking this Policy, sexual misconduct that is alleged to have occurred at a significant distance from the University and/or outside of University property may be more difficult for the University to investigate.

In the case of allegations of sexual misconduct, this Policy supersedes all other procedures and policies set forth in other University documents.

Allegations of sexual misconduct involving non-student employees (faculty and staff) that do not involve a student or student employee do not fall within the scope of this policy and should be directed to the University's Office of Human Resources, 1269 Barclay Circle, Marietta, GA 30060.

III. STATEMENTS OF POLICY

(a) Prohibition on Sexual Misconduct.

This Policy is designed to protect the rights and needs of complainants and respondents. Life strongly encourages prompt reporting of all types of sexual misconduct and is committed to fostering a community that promotes timely and fair resolution of sexual misconduct cases. To that end, the University has defined sexual misconduct broadly.

(b) Prohibition on Retaliation.

Retaliation against any person for filing, supporting, or providing information in good faith in connection with a complaint of sexual misconduct is strictly prohibited. Retaliation against a person who files a complaint or participates in the adjudicatory process set forth in this Policy in good faith is a violation of this Policy and is prohibited under Title IX. The University will not only take steps to prevent retaliation but also take strong responsive action if retaliation occurs.

(c) Prohibition on Providing False Information.

Any individual who knowingly files a false complaint under this Policy, who knowingly provides false information to University officials or who intentionally misleads University officials who are involved in the investigation or resolution of a complaint may be subject to disciplinary action.

(d) Sources for Confidential Reporting.

Life encourages victims of sexual violence to talk to somebody about their experiences so victims can get the support they need, and so the University can respond appropriately. Different employees on campus have different abilities to maintain a complainant's confidentiality. A complainant has various reporting and confidential disclosure options available to them. Those options are as follows:

A. Privileged and Confidential Communications

Professional, licensed counselors who provide mental-health counseling to members of the Life community are not required to report any information about an incident to the Title IX Coordinator without a complainant's permission. Life contracts with professional counselors and those counselors can be contacted as follows:

Student Assistance Program (SAP)
24/7 phone and online resources 800-869-0276
www.eapconsultants.com (password: **lifeu**)

A complainant who speaks to a professional counselor must understand that if the complainant wants to maintain complete confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Even so, the counselor will still assist the complainant in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.

A complainant who at first requests confidentiality may later decide to file a complaint with the University or report the incident to local law enforcement, and thus have the incident fully investigated. The counselor will provide the complainant with assistance if the complainant wishes to do so and signs the necessary release forms.

NOTE: While the professional counselor may maintain a complainant's confidentiality vis-à-vis the University, the professional counselor may have reporting or other obligations under state law and also the professional counselor's own moral and ethical guidelines. These reporting or other obligations may limit the extent to which the professional counselor may maintain a complainant's confidentiality.

B. Reporting to "Responsible Employees."

A "responsible employee" is a Life employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. A responsible employee will report to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the complainant – including the names of the complainant and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

A responsible employee cannot guarantee that the University will be able to honor a request for confidentiality. However, to the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University's response to the report. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will inform the Title IX Coordinator of the complainant's request for confidentiality, if such a request has been made.

(e) Related Misconduct and Limited Immunity.

The University considers the reporting and adjudication of sexual misconduct cases to be of paramount importance. When conducting the investigation, the University's primary focus will be on addressing the misconduct and not necessarily on other policy violations that may be discovered or disclosed, such as alcohol violations.

IV. REPORTING SEXUAL MISCONDUCT

Because sexual misconduct may in some instances constitute both a violation of University policy and criminal activity, and because the University grievance process is not a substitute for instituting legal action, the University encourages individuals to report alleged sexual misconduct promptly to campus officials and to law enforcement authorities, where appropriate.

Individuals may file a complaint at any time, but the University strongly encourages individuals to file complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding.

(a) Filing a Complaint with Local Law Enforcement:

Individuals have the option to notify or decline to notify law enforcement of their complaint. Individuals may file a complaint directly with local law enforcement agencies by dialing 911. Individuals may contact any of the following for assistance in filing a complaint with local law enforcement:

- (i) Campus Safety, 24 hours a day, 365 days a year. Campus Safety can be contacted from a Life University land line phone at Ext. 2911 or from a cell phone at (770) 426-2911 and is located in Mod 2 behind the Learning Resources Center (“LRC”); or
- (ii) the University’s Title IX Coordinator, Leigh Parker whose office is located in the Administrative Offices, 1250 Life’s Way, Marietta, Georgia 30060. Ms. Parker may be contacted by phone at (770) 426-22686 or by email at TitleIX@life.edu.

If the incident occurred in Cobb County, you can also contact the Cobb County Police Department at 770-499-3900.

Reporting the incident to the police does not mean that a complainant must press charges, but it does help assure that the complainant receives assistance in deciding how to proceed. Individuals who make a criminal complaint may also choose to pursue a University complaint simultaneously.

A criminal investigation into the matter does not preclude Life from conducting its own investigation. However, the University’s investigation may be delayed temporarily while the criminal investigators are gathering evidence.

(b) Filing a Complaint with University Administration:

Anyone wishing to make a complaint under this policy should do so by contacting the Title IX Coordinator. Reports can be made using the online reporting system by clicking the following link: https://publicdocs.maxient.com/reportingform.php?LifeUniv&layout_id=5.

If an employee of the University becomes aware of alleged sexual misconduct, that employee must notify the University’s Title IX Coordinator.

(c) Additional Resources

In addition to the support resources available on campus, there are a number of support resources in the community to assist individuals in dealing with sexual misconduct, whether it happened recently or in the past. Some of those support resources are listed below.

Cobb County Rape Crisis Line
770-427-3390

Cobb County Rape Crisis (YWCA) – Free group and individual counseling, walk-ins welcome
770-423-3589

National Sexual Assault Hotline
800-656-4673

Rape Crisis/Sexual Assault (Grady) – includes an exam and rape kit w/in 72 hours at no charges
404-616-4861

V. INVESTIGATION AND ADJUDICATION

The Title IX Coordinator is responsible for overseeing the prompt, fair, and impartial investigation and resolution of complaints filed with the University. The Title IX Coordinator is primarily responsible for coordinating responses to complaints of possible violations of this policy, overseeing the investigation and adjudication of complaints, and coordinating possible remedial actions or other responses designed to minimize the recurrence of the alleged conduct as well as mitigate the effects of the harassment. In most cases, an investigation will be completed within 60 days; however, a longer period may be needed in some more complex cases. If the process takes longer, the Title IX Coordinator will provide written notice to the complainant and respondent of the delay and the reason for the delay.

While the Title IX Coordinator has ultimate oversight responsibility of the prompt, fair, and impartial investigation and resolution of complaints filed with the University, Deputy Title IX Coordinators are also involved with complaints filed under this Policy. There are four Deputy Title IX Coordinators:

Jennifer Valtos, Executive Director of Student Services	(770) 426-2762
Andre Clanton, Director of Student Conduct	(770) 426-2708
Jayne Pendergast, Director of Athletics Academic Support and Compliance	(770) 426-2858
Morris Braum, Senior HR Business Partner	(770) 426-2704
Rebecca Koch, Director of Service Initiatives	(770) 426-2910

The University may appoint additional Deputy Title IX Coordinators, as needed.

(a) Request Not to Pursue a Complaint or for Confidentiality.

A complainant may determine after filing a complaint that he or she does not wish to pursue resolution of the complaint through the University, or that he or she wants his or her identity to remain confidential. The University takes such requests seriously. However, such requests may limit the University's ability to respond to a complaint.

Title IX requires the University to evaluate the request(s) that a complaint not be adjudicated or that the complainant's identity be kept confidential in the context of the University's commitment to provide a reasonably safe and non-discriminatory environment and the fairness of the respondent to be informed of the allegations and their source. In the case of confidentiality, some level of disclosure may be necessary to ensure a complete and fair investigation, although Life will comply with requests for confidentiality to the extent possible.

In order to evaluate a request not to pursue a complaint or for anonymity, the Title IX Coordinator will consider the following factors: the seriousness of the alleged sexual misconduct, the complainant's age, circumstances that suggest there is an increased risk of the respondent committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same respondent, whether the respondent has a history of arrests or records from a prior school indicating a history of violence, whether the respondent threatened further sexual violence or other violence against the student or others, and whether the sexual violence was committed by multiple perpetrators), whether the sexual violence was perpetrated with a weapon; whether the school possesses other means to obtain relevant evidence, and the respondent's right to receive information about the allegations if the information is maintained by the University as an "Education Record" under the Family Educational Rights and Privacy Act ("FERPA").

The Title IX Coordinator is responsible for making determinations concerning requests not to pursue a complaint or for confidentiality. If the Title IX Coordinator determines that it must disclose a complainant's identity to a respondent, it will inform the complainant prior to making this disclosure.

Even when Life is in receipt of a request not to pursue an investigation, Title IX requires the University to take reasonable action in response to the information known to it; thus, Life may take such measures and impose such discipline as are deemed necessary by the Title IX Coordinator.

It should once again be noted that Title IX includes protections against retaliation, and the University will not only take steps to prevent retaliation but also take strong responsive action if retaliation occurs.

(b) Assignment of an Investigator(s).

Upon the filing of a complaint, the Title IX Coordinator will promptly assign the complaint to the appropriate Deputy Title IX Coordinator(s) for investigation. The Title IX Coordinator will share the investigators name(s) and contact information with the complainant and the respondent and will forward the complaint to the investigator(s).

(c) Investigation.

Upon receipt of the complaint, the investigator will promptly begin his or her investigation. The investigation may involve conducting interviews with the complainant, the respondent, and third-party witnesses; where applicable, collecting and preserving relevant evidence (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies); reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; other appropriate steps taken in an investigation. The investigation will be adequate, reliable, impartial, and prompt and include the opportunity for both parties to present witnesses and other evidence. The investigation will be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking.

The investigator should obtain, where applicable and where possible, the written consent of any third-party witnesses to the disclosure, as contemplated by this Policy, of any Personally Identifiable Information contained in the complaint and/or any other documents the disclosure of which is contemplated by this Policy in order to further the resolution of the complaint. If the investigator is unable to obtain the consent of such third-party witnesses, he or she will redact to the extent necessary to avoid inappropriate disclosure of such witness's personally identifiable information, while ensuring that such redaction does not prevent resolution of the complaint.

(d) Interim Measures.

During the investigation and until resolution of matter, the Title IX Coordinator or Deputy Title IX Coordinator may issue interim restrictions, including, but not limited to the following: no-contact or stay away orders between the complainant and respondent, interim suspension, reassignment or administrative leave, or exclusion from areas of campus, changes to work schedules, altering academic schedules, withdraw from/retake class without penalty, access to academic support (e.g., tutoring), among other measures. Interim measures should not be construed to suggest that any decision has been made about the merits of the case.

(e) Report of Investigation.

At the conclusion of his or her investigation, the investigator will prepare a written investigative report that includes items such as summaries of all interviews conducted, photographs, and descriptions of relevant evidence, summaries of relevant electronic records, and a detailed report of the events in question (the "Report of Investigation"). The Title IX Coordinator or Deputy Title IX Coordinator, if that individual is not the investigator, may ask further clarifying questions of the complainant, respondent, or witnesses to supplement the Report of Investigation. The Title IX Coordinator has the discretion to redact prohibitive or non-relevant information from the Report of Investigation before it is shared with the parties involved.

The Title IX Coordinator shall review the Report of Investigation and determine whether there is sufficient information to support charging the respondent with a violation of this Policy. If a determination is made that the available information will not support a violation, then the

respondent will not be charged and the complainant and respondent will simultaneously be provided written notice of that determination.

If the Title IX Coordinator determines that there is sufficient information that a respondent may have committed a violation of this Policy, then the Title IX Coordinator will provide to the respondent and the complainant a written “Notice of Charges of Policy Violation” (“Notice of Charges”) which will contain summary information that supports the charge(s). The determination to charge the respondent does not mean that the respondent will be found responsible for a Policy violation. Instead, it means that the Title IX Coordinator has determined that based upon the available information contained within the Report of Investigation, the case warrants further review by a hearing board. The respondent will only be found in violation if the hearing board determines, by a preponderance of the evidence, that the respondent has committed a violation of the Policy.

(f) Informal Resolution.

The complainant may elect to resolve his or her complaint through the informal resolution (mediation) process, provided that (i) the respondent agrees to such resolution, (ii) the complainant and the respondent are both students or are both employees of the University, (iii) the Title IX Coordinator or Deputy Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving the complaint, and (iv) the complaint does not involve sexual assault.

(g) Respondent’s Acknowledgement of Responsibility Prior to Hearing.

At any time prior to the date of his or her hearing, the respondent may elect to acknowledge his or her actions and take responsibility for the charges in the Notice of Charges. If a respondent does so, the Title IX Coordinator will determine the appropriate sanction within five (5) business days and send written notification of the sanction imposed to the complainant and respondent.

VI. HEARING PROCEDURE

(a) Hearing Panel.

If an investigation supports moving forward with a hearing and the respondent does not accept responsibility for the alleged conduct, the Title IX Coordinator will appoint a hearing panel of four individuals, drawn from a pool of faculty and staff with appropriate knowledge and training, to determine if the respondent is responsible for violations in the Notice of Charges.

The Title IX Coordinator will appoint one of the panel members as its Chair. The Chair is a non-voting position. The Title IX coordinator will select the date, time, and location of the hearing, and will provide notice to all parties. The Title IX Coordinator will also provide the Report of Investigation to the hearing panel. The appointment of the hearing panel will occur promptly after the parties are provided the Notice of Charges.

In the event that the complainant and/or the respondent fail(s) to appear as scheduled, the Chair may choose to conduct or reschedule the hearing.

Both parties shall be given similar and timely access to information that will be used at the hearing and be given the substantially equivalent opportunities to present relevant evidence and witnesses.

(b) Eligibility.

In order to be eligible to serve on the Hearing Panel, individuals must meet the following requirements: Faculty must have been employed by Life for a minimum of one (1) academic year and have taught at least one course within the most recent two (2) academic quarters. Staff must be currently employed and must have been employed by Life University for at least one (1) complete quarter.

It is expected that members of the Hearing Panel shall recuse themselves from a particular hearing if there is the likelihood that their objectivity may be compromised.

The parties have the right to object to and/or request that any one member of the Hearing Panel recuse themselves from a hearing. This request will be reviewed and a decision made by the Title IX Coordinator. The request must be submitted to the Title IX Coordinator at least 72 hours prior to the hearing.

(c) Advisor.

The complainant and respondent have the right to confer with an advisor of his or her choice, without limitations (excluding those persons directly involved in the dispute), throughout the disciplinary process. The advisor may be present, but may not actively participate in the hearing, and may not serve as a witness. Should the advisor be an attorney, the party must notify the Title IX Coordinator at least 72 hours prior to any scheduled hearing. The Title IX Coordinator will make any necessary notifications.

Advisors, if present, shall be restricted to consulting with their advisees. Advisors may not address witnesses or the Hearing Panel unless invited to do so. Any violation of University policies committed by an advisor may lead to the exclusion of that advisor from the process. That includes but is not limited to, any act of retaliation or breach of privacy committed by an advisor.

The parties have the responsibility to notify their advisor of the time, date, and location of any disciplinary proceeding. Proceedings will not be rescheduled to accommodate an advisor.

(d) Notice of the Hearing.

The Title IX Coordinator will provide the parties with written notice of the hearing. The notice will include the time, date, and location of the hearing; the consequences of failure to appear at the hearing; the name(s) of the reporting party/parties and the charges being considered; a list of all complainants and respondents and/or anticipated witnesses to be called by the complainant, the respondent, and/or Life University, except when disclosure would cause undue risk to the witness(es); a list of the members of the Hearing Panel; and the procedures for requesting a change in the time and/or date of the hearing.

(e) Hearing Procedures.

1. The Chair shall have all participants execute confidentiality agreements.
2. The Chair shall call the hearing to order and state the date and time.
3. The Chair shall ask for identification of the parties attending the hearing for the record.
4. The Chair shall state the conditions of the hearing, including:
 - The hearing shall be recorded and/or transcribed via court reporter.
 - The hearing shall be closed, with participation limited to the respondent(s), the complainant(s), and/or witness(es). Witnesses will remain outside the hearing until asked to provide information.
 - Both parties have the right to be present for the entire hearing, except for deliberations or recesses for the panel to discuss procedural issues. A complainant shall not be required to be physically present in the same room as the respondent, and at the discretion of the Chair, electronic participation by a complainant may constitute presence for purposes of any proceeding.
 - All statements, testimony and evidence shall be restricted to matters directly relevant to the case, as determined by the Chair. The Chair will not be obligated to follow the rules of evidence as applied in a court of law.
 - Any person disrupting, interfering with or failing to abide by the rulings of the Chair may be excused from the hearing.
 - Both parties are entitled to have an advisor present. Advisors shall be restricted to consulting with their advisees. Advisors may not address witnesses or members of the Hearing Panel unless invited to do so.
 - The level of proof required to determine whether or not a respondent is responsible for the allegations shall be by a preponderance of the evidence, i.e., it is more likely than not that sexual misconduct occurred.
 - The hearing and its final outcome shall be considered part of the respondent's educational record, and as such shall be kept confidential, except as provided under federal and state law.
5. The Chair shall ask the complainant(s) and the respondent(s) at this time if there are any objections to proceeding with the hearing. He/she shall be solely responsible for deciding if such objections are reasonable and/or what measures should be taken to address them.

6. The Chair shall present the complaint and state the charge(s).
7. The Chair shall read any response submitted by the respondent(s).
8. The complainant(s) shall be given the opportunity to make an opening statement.
9. The respondent(s) shall be given the opportunity to make an opening statement.
10. The complainant(s) shall be given the opportunity to present evidence and/or call witnesses. The Hearing Panel shall have the first option of questioning the complainant(s) and/or witness(es), followed by the respondent(s).
11. The respondent(s) shall be given the opportunity to present evidence and/or call witnesses. The Hearing Panel shall have the first option of questioning the respondent(s) and/or witness(es), followed by the complainant(s).
12. The parties are not allowed to personally question or cross-examine each other during the hearing. The parties may submit questions to be asked by the Hearing Panel on their behalf. The Hearing Panel will screen the questions submitted by the parties and only ask those it deems appropriate and relevant to the case. Questioning about the complainant's sexual history with anyone other than the respondent is not permitted. The University also recognizes that the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual violence.
13. The complainant(s) shall be given the opportunity to make a closing statement.
14. The respondent(s) shall be given the opportunity to make a closing statement.
15. The Chair shall conclude the hearing.
16. The Hearing Panel shall enter closed deliberations. All findings of fact and any determination(s) of violation(s) shall be decided by a majority vote, based on a preponderance of the evidence.
17. If the respondent is found to be in violation, appropriate sanctions will be assigned.

(f) Findings of the Hearing Panel.

The Chair will submit a written report to the Title IX Coordinator containing the Hearing Panel's determination and rationale within five (5) business days of the conclusion of the hearing. Both parties shall receive simultaneous written notice of the outcome of the hearing, sanctions and remedies imposed, and the process and deadline for submitting an appeal by either party.

When the respondent is a student, in order to comply with FERPA, the findings will not include information considered part of a respondent's "education record" (as that term is defined by FERPA), such as information about sanctions that do not relate to the complainant.

(g) Potential Remedies for Complainants.

Effective remedial action taken as a result of a violation of this Policy may include, but is not limited to, disciplinary action against the respondent, providing counseling for the respondent, and remedies for the complainant and others. Depending on the specific nature of the problem, remedies for the complainant may include, but are not limited to:

- Providing and enforcing a no contact or stay away order;
- Providing an effective escort to ensure that the complainant can move safely between classes and activities;
- Moving the respondent or complainant (if the complainant requests to be moved) to a different residence hall;
- Ensuring the complainant and respondent do not share classes or extracurricular activities;
- Providing victim services including medical, counseling and academic support services, such as tutoring;
- Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty; and
- Reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the sexual violence and the misconduct that may have resulted in the complainant being disciplined.

(h) Sanctions.

Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct, any record of prior discipline for sexual misconduct, or both. Sanctions may include, without limitation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the University, disciplinary probation, expulsion from campus housing, mandated counseling, and/or educational sanctions deemed appropriate by the Hearing Panel.

The Hearing Panel will determine sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, (c) whether there are any prior instances of sexual misconduct by the respondent, and (d) remedy the effects of the violation.

The respondent has the responsibility to comply with all sanctions imposed as the result of a hearing. If an appeal is requested, the sanctions may be stayed and will not take effect until the appeal process has been completed, depending on the circumstances as decided by the Title IX Coordinator. If no appeal is requested, the sanctions will take effect immediately. In a case in which interim sanctions have been imposed, they will continue in force until all appeals have been exhausted.

VII. APPEALS

The parties have the right to appeal any decision made by the Hearing Panel. Neither respondent nor complainant can appeal an Informal Resolution.

An appeal must be submitted in writing and must be received by the Title IX Coordinator within five (5) business days of the date of notification of the findings of the Hearing Panel. An extension to this deadline may be granted at the sole discretion of the Title IX Coordinator. The Title IX Coordinator shall then refer the appeal to the appellate officer.

A decision on an appeal may not be rendered until the filing deadline has passed. Appellate decisions should be rendered, and proper written notification provided to the Title IX Coordinator no later than ten (10) days after the filing deadline. The Title IX Coordinator shall notify all parties as appropriate of the results of the appeal.

1. Appellate Officer. The appellate officer shall be the Provost or his/her designee
2. Appeal Criteria. Appeals shall be considered only in the following circumstances:
 - To allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing.
 - To allege that finding was inconsistent with the weight of the information.
 - The imposition of a sanction that is disproportionate, arbitrary, and/or capricious.
 - To consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original hearing, because such information was not known or knowable to the person appealing during the time of the hear.
3. Available Actions. The appellate officer is limited to taking one of the following actions for each party:
 - Affirm the finding(s) of fact and sanctions imposed by the Hearing Panel.
 - Affirm the finding(s) of fact but modify the sanction(s) imposed.
 - Remand the complaint for a new hearing before a new hearing.

Under no circumstances shall the appellate officer supplant the function of the Hearing Panel; the appellate process exists solely to review the procedures used in the proceedings, and not to re-hear a complaint in its entirety.

The decision of the appellate officer is final.

Definitions

Complainant is the person making an allegation or complaint of sexual misconduct.

Complaint is an allegation of sexual misconduct asserted against another party and reported to or filed with the University.

Consent is defined as agreement that is informed and given freely. Consent must be clearly communicated through words and/or actions, to participate in each form of sexual activity. Silence cannot be interpreted as consent, nor can passivity or lack of resistance. Previous relationships or instances of consent do not imply future consent. By definition, there is no consent when there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. Impairment due to the use of alcohol or drugs does not excuse failure to obtain consent. Likewise, any person incapacitated by alcohol or drug use, or who is unconscious, asleep or physically impaired is incapable of giving consent. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.

Coercion is inappropriate pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When a person makes clear that they do not want sex, wants to stop, or that going past a certain point of sexual interaction is unwanted, continued pressure beyond that point can be coercive.

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

Domestic violence is a felony or misdemeanor crime of violence committed by: a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Georgia, or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Georgia.

Hostile environment based on sex exists when harassment is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities.

Incapacitation can result from mental disability, sleep, involuntary physical restraint, or from intentional or unintentional taking of alcohol and/or other drugs. An incapacitated person does not have the ability to give knowing consent. Sexual activity with a person who one should know to be – or based on the circumstances should reasonably have known to be – mentally or physically incapacitated, constitutes a violation of this policy. The perspective of a reasonable

person will be the basis for determining whether one should have known about the impact of the use of alcohol and/or drugs on another's ability to give consent.

Non-Consensual Sexual Contact is any intentional sexual touching by a person upon a person that is without consent and/or by force. Sexual Contact includes, but is not limited to, intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice, with any object.

Non-Consensual Sexual Intercourse is any sexual intercourse by a person upon a person, which is without consent and/or by force. Intercourse includes, but is not limited to, vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Rape is defined the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Relationship violence (also known as “**Intimate Partner Violence**”) is physically, sexually and/or psychologically abusive behavior used by one individual to maintain power and control over an intimate partner. Intimate partner relationships are relationships between parties who are dating, cohabitating, married, separated or divorced. Relationship violence can occur in same- or opposite-sex relationships.

Respondent is the person against whom the allegation or complaint of sexual misconduct is made.

Retaliation is any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of sexual misconduct, including but not limited to direct and indirect intimidation, threats, and harassment.

Sexual Exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another student;
- Non-consensual video or audio-taping of sexual activity;
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex);
- Engaging in voyeurism;
- Any act that is sexual in nature when such an act is likely to threaten any party's health and/or safety without his/her knowing and valid consent. This includes, but is not limited to, any act that may reasonably be expected to transmit HIV or other sexually transmitted

diseases and is performed when either party has failed to divulge his/her infection with such a disease;

- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment may include, for example, an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention or advances; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence or sexual assault; intimate partner violence; stalking; and gender-based bullying. Sexual violence is a form of sexual harassment.

Sexual misconduct can occur in many forms, including, but not limited to, sexual harassment, non-consensual sexual contact (or attempts to commit same), non-consensual sexual intercourse (or attempts to commit same), rape, sexual violence, intimate partner violence, sexual exploitation, and stalking. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by persons of any gender or sex, and it can occur between people of the same or different sex.

Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by this policy and Title IX.

Stalking refers to (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) Fear for the person's safety or the safety of others; or (B) Suffer substantial emotional distress. (ii) For the purposes of this definition-- (A) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. (B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. (C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Student is any person pursuing academic studies at the University. The term also includes: (1) a person not currently enrolled who was enrolled in the fall, winter, spring, or summer term preceding the alleged violation, (2) a person who, while not currently enrolled, was previously enrolled in the University and who is reasonably anticipated to seek enrollment at a future date, or (3) a person who has been accepted for admission to the University and has accepted an offer of admission or may reasonably be expected to enroll.