

Sex and Gender-Based Misconduct Policy

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I. Preamble

Jefferson is committed to fostering a safe living and learning environment for all members of the University community. This includes freedom from any form of discrimination or harassment. This policy sets forth Jefferson's prohibition on sex and gender-based misconduct, including sexual violence. We expect community members to engage in relationships that are characterized by mutual respect and affirmative consent.

The University's response to sex and gender-based misconduct seeks to balance the rights, needs and privacy of the parties, while maintaining the health and safety of the campus community. Emphasis is placed on education, violence prevention, providing supportive measures, and ensuring a vigorous enforcement of institutional policy and law.

II. Policy Statement

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in educational programs and activities that receive federal financial assistance. The University is committed to providing an environment free of discrimination on the basis of sex and to addressing any violation of its policies, even those not meeting the definition of "Sexual Harassment" adopted under this policy.¹

III. Scope

This policy applies to all members of the University community, including but not limited to students, employees, volunteers, visitors, and any individuals having any official capacity at the University. This policy applies to conduct occurring in connection with an educational program, including conduct that occurs on University property, at University events or programs that take place off campus, and any off-campus or online behaviors that could reasonably create a hostile environment on campus or otherwise adversely affect the educational setting.

IV. Sexual Assault Response

An individual who has experienced sexual assault (for purposes of this policy, the individual affected by the alleged misconduct will be referred to as the complainant) can call 811 or 215-955-8888 for Center City Campus Security or 215-951-2999 for East Falls Security, or 911 (Philadelphia Police Department). When a report of a sexual assault is made to University personnel on an emergency basis, Campus Security or other University personnel will escort the victim to a place of safety and will identify, secure and maintain the scene of the alleged assault or offense, as appropriate.

¹ The definition of Sexual Harassment set forth in this policy conforms to the definition in the federal Title IX regulations, 34 CFR 106.30(a). Sex or gender-based misconduct, including disparate treatment based on sex, that falls outside the definition of Sexual Harassment also is not tolerated by the University and will be addressed through the Community Standards process or other Jefferson policies and practices, including but not limited to the Code of Conduct.

If there is a need to preserve evidence the Philadelphia Police Department will be contacted. Evidence of a sexual assault should be preserved as soon as possible, even if the reporting individual is unsure about reporting or filing criminal charges. If a sexual assault has occurred it is important for the complainant to seek medical attention as soon as possible to check for internal injuries, receive preventative treatment, and gather forensic evidence.

The complainant will be informed of the availability of immediate medical and/or psychological assistance, including treatment for emergent injuries at the nearest Emergency Department. Forensic medical examinations are not administered at Philadelphia emergency rooms and will be done by a Sexual Assault Nurse Examiner at the Philadelphia Sexual Assault Response Center (PSARC). If not an emergent situation requiring the close proximity of an Emergency Room, victims have the option of going directly to PSARC at 300 E. Hunting Park Avenue, Philadelphia, PA 19124, 215-425-1625.

PSARC provides forensic medical evaluation, injury documentation, forensic photography, pregnancy prevention, sexually transmitted infection prevention, HIV prevention, follow-up care, and court testimony. Victim advocacy and counseling is available through Philadelphia Center Against Sexual Violence (WOAR). WOAR has a 24-hour hotline (215-985-3333) and will arrange for a counselor to meet with you before, during, or after any forensic medical examination. For more information on assistance available, see the Campus/Community Services section of this policy.

In all circumstances, the complainant shall be informed of the procedures for filing criminal charges via the Philadelphia Police Department. If the complainant chooses to have police notified, security will immediately notify the Philadelphia Police and assist the complainant in the filing of the charges if requested. The Title IX Coordinator (detailed in Reporting) will be notified in order to maintain coordination of a University investigation and campus services.

V. Consent

Consent to engage in sexual activity must be obtained from each partner and must exist from beginning to end of each instance of sexual activity. Consent must be clear, informed, knowing, and voluntary. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in sexual activity. Note that, although consent may in some cases be demonstrated through nonverbal conduct alone, reliance on nonverbal conduct alone as an indication of consent could lead to misunderstandings. It is better to obtain a verbal indication of consent.

Consent is not effective if it results from the use of physical force, intimidation or coercion, or if the person is too incapacitated to provide informed, knowing and voluntary consent. If a partner becomes too incapacitated to consent during the course of sexual activity, there is no longer consent. Silence and/or a lack of resistance do not, by themselves, demonstrate consent. Use of alcohol or drugs shall not diminish one's responsibility to obtain consent, but may diminish one's ability to consent.

Consent to engage in sexual activity may be withdrawn by any party at any time. Withdrawal of consent must also be outwardly demonstrated by words and/or actions that clearly indicate a desire to end sexual activity. Note that, although withdrawal of consent may in some cases be demonstrated through nonverbal conduct alone, reliance on nonverbal conduct alone to withdraw consent could lead to misunderstandings. It is better to verbally withdraw consent by saying “no,” “stop” or some other similar verbal communication. Once withdrawal of consent has been clearly expressed, sexual activity must cease. A previous sexual relationship and/or current relationship with a partner, do not, by themselves, imply consent.

VI. Prohibited Behaviors

Sex and Gender-Based Misconduct is the overarching term used by the University to describe behaviors or offenses of a sexual nature that are committed against individuals who do not consent to them, which includes discrimination or harassment based on sex or gender. Sex and Gender-Based Misconduct is prohibited under this policy. Instances of Sex and Gender-Based Misconduct include, but are not necessarily limited to, unwanted sexual acts which are committed by coercion, force, intimidation, manipulation or otherwise without consent. While this policy prohibits discrimination based on sex in the form of disparate treatment, allegations of sex-based disparate treatment will be handled under the Code of Conduct and Policy Prohibiting Unlawful Discrimination, Harassment and Retaliation when alleged to have been committed by an employee of the University and under the procedures set forth by the Community Standards when alleged to have been committed by a student. The following are examples of behaviors or offenses that are considered acts of Sex and Gender-Based Misconduct.

A. Sexual Harassment

Sexual Harassment may involve unwelcome sexual, sex-based and/or gender-based verbal, written, on-line and/or physical conduct. Sexual harassment may include a range of subtle and overt behaviors and may involve individuals of the same or different sex. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual’s body, sexual prowess or sexual deficiencies; leering, catcalls or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.

Thomas Jefferson University recognizes that acts of Sexual Harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment, as an umbrella category, includes the offenses of quid pro quo sexual harassment, hostile environment sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

These specific categories of offense are defined as follows:

1. Quid Pro Quo Sexual Harassment:
 - a. an employee of the University,
 - b. conditions the provision of an aid, benefit, or service of the University,
 - c. on an individual’s participation in unwelcome sexual conduct

2. Hostile Environment Sexual Harassment:
 - a. unwelcome sex-based conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, pervasive and objectively offensive,
 - d. that it effectively denies a person equal access to Thomas Jefferson University's education program or activity.

3. Sexual Assault, defined as:
 - a) Sex Offenses, Forcible:
 - i) Any sexual act directed against another person,
 - ii) without the consent of the Complainant,
 - iii) including instances in which the Complainant is incapable of giving consent.

 - b) Forcible Rape:
 - i) Penetration,
 - ii) no matter how slight,
 - iii) of the vagina or anus with any body part or object, or
 - iv) oral penetration by a sex organ of another person,
 - v) without the consent of the Complainant.

 - c) Forcible Sodomy:
 - i) Oral or anal sexual intercourse with another person,
 - ii) forcibly,
 - iii) and/or against that person's will (non-consensually), or
 - iv) 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.

 - d) Sexual Assault with an Object:
 - i) The use of an object or instrument to penetrate,
 - ii) however slightly,
 - iii) the genital or anal opening of the body of another person,
 - iv) forcibly,
 - v) and/or against that person's will (non-consensually),
 - vi) 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.

 - e) Forcible Fondling:
 - i) The touching of the private body parts of another person (buttocks, groin, breasts),
 - ii) for the purpose of sexual gratification,
 - iii) forcibly,
 - iv) and/or against that person's will (non-consensually),
 - v) 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.

f) Sex Offenses, Non-forcible:

i) Incest:

- 1) Non-forcible sexual intercourse,
- 2) between persons who are related to each other,
- 3) within the degrees wherein marriage is prohibited by applicable law.

ii) Statutory Rape:

- 1) Non-forcible sexual intercourse,
- 2) with a person who is under the statutory age of consent of 16.

4. Dating Violence, defined as:

- a. Violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined 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. For the purposes of this definition—
 - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - iii. Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence, defined as:

- a. Violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence applicable state laws , or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence applicable state laws of .

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6. Stalking, defined as:

- a. Engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) 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.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

B. Other Sex and Gender-Based Misconduct

Distinguishable from the above defined offenses that fall under the umbrella category of "Sexual Harassment", the below offenses are additionally prohibited by the University. These offenses will not trigger the same procedures as the offenses defined as Sexual Harassment, but will be handled, as applicable, through the procedures set forth in the Community Standards or pursuant to other Jefferson policies and procedures, including under the Code of Conduct. When conduct is alleged to include both Sexual Harassment and Other Sex and Gender-Based Misconduct, a determination may be made to include the below offenses in the same investigation and adjudication as the alleged Sexual Harassment and will alert the parties as to the applicable procedures.

1. **Harassment** based on sex, but which does not satisfy the definition of Sexual Harassment under A2 above. Such harassment may include, but is not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, catcalls or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.
2. **Discrimination** based on sex is any prohibited act or failure to act, based in whole or in part on a person's sex that has a negative impact on privileges,

benefits, or working conditions, or results in unequal treatment of employees, applicants, students, patients, or other protected members of the Jefferson community.

- 3. Sexual Exploitation** is an act of Sexual Misconduct in which a person exploits or takes advantage of another person in a sexual manner without consent. Examples of Sexual Exploitation include, but are not limited to, the following:
- a. Recording (audio or video) or photographing sexual activity without the knowledge and consent of all parties involved
 - b. Electronic or printed transmission (posting online, texting, emails, etc.) of sounds or images of sexual activity without the knowledge or consent of all parties involved
 - c. Voyeurism (spying on others who are engaged in an intimate or sexual act)
 - d. Going beyond consent (having consensual sex but allowing other people to watch without the knowledge of the consenting party)
 - e. Prostituting another person
 - f. Public indecency (exposing yourself without consent)
 - g. Knowingly exposing an individual to a sexually transmittable infection or virus without his or her knowledge.

4. Retaliation.

When an individual engages in action(s) or omission(s) intended to intimidate, threaten, coerce, discriminate or otherwise adversely affect a person who, in good faith, makes an allegation or report of sex or gender-based misconduct, participates or refuses to participate in an investigation, or participates or refuses to participate in the University's process for addressing allegations and/or incidents of sex or gender-based harassment, including offering or refusing to offer testimony, assistance, or cooperation.

VII. Initial Procedures

A. Reporting

The University encourages those subjected to Sex or Gender-Based Misconduct to report what occurred so they can get the support they need and the university can respond appropriately. *It is important to note that different employees on campus have different levels of responsibility to maintain a person's confidentiality. The following are reporting options that carry different levels of confidentiality.*

1. Officials with Authority

The Title IX Coordinator and the Vice President of Human Resources are the University's designated officials with authority for purposes of this policy. A report to the Title IX Coordinator and/or the Vice President of Human Resources places the University on notice of the alleged events and triggers the University's obligation to respond to the allegations.

Both the Title IX Coordinator and the Vice President of Human Resources are authorized to institute corrective measures on behalf of the University. Should the complainant or a reporting party wish *not* to place the University on official notice of the allegations and *not* trigger the University's obligation to respond, they may discuss their concerns confidentially with the individuals or offices referenced below under Confidential Resources.

2. Confidential Reporting

Specific employees of Jefferson may talk in confidence to a student subjected to sexual misconduct. If a student reports through these avenues, the University will be unable to conduct an investigation or pursue disciplinary action. Reporting to the following people will not trigger an investigation without consent:

- a. Student Personal Counseling Center in Center City (215-503- 2817) Counseling Services in East Falls (215-951-2868)
- b. Pastoral Care Program in Center City (215-955-6336)
- c. University Health Services in Center City (215-955-6835) Health Services in East Falls (215-951-2986)

3. Non-Confidential Reporting

The majority of Jefferson employees are non- confidential and are expected to report information regarding an incident to the Title IX Coordinator and Campus Security. When an incident involves an employee, reports should also be made to Human Resources. The list of non-confidential employees includes:

- a. Campus Security (811 or 215-955-8888 in Center City, 215-951-2999 in East Falls)
- b. Title IX Coordinator and Deputy Title IX Coordinators:
 1. Title IX Coordinator: Kathleen Colgan Vodzak, Thomas Jefferson University, kathleen.vodzak@jefferson.edu; 215-951-2520; 4201 Henry Avenue, Archer Hall 200, Philadelphia, PA 19144
 2. Deputy Title IX Coordinator, Center City: Nannette Vliet, Associate Dean, Jefferson College of Health Professions, nannette.vliet@jefferson.edu; 215-503-7941
 3. Deputy Title IX Coordinator, Center City: Katherine Trayes, Associate Dean, Sidney Kimmel Medical College, katherine.trayes@jefferson.edu; 215-503-6988
- c. College Deans or Associate Deans
- d. Full-time faculty
- e. Residence Life staff (including RAs)
- f. Staff with significant responsibility to student and campus activities
- g. Resources (if involving an employee)
- h. Coaches
- i. Office of Student Affairs (Center City)
- j. Office of the Dean of Student Life (East Falls)

- k. Office of Faculty Affairs

4. Anonymous Reporting

Students and employees also have the option of anonymous reporting. If an anonymous report is made the identity of the reporting party will not be known, but the University's ability to respond will be limited. The following are options for anonymous reporting:

- a. Campus Security 24-hour recorded phone line (215-955-5678)
- b. Jefferson Alert Line (833) 663-2633 or Jefferson.MyComplianceReport.com
- c. Submitting a report through the reporting link anonymously at www.jefferson.edu/titleix

Please note that, with the exception of entirely confidential reports to one of the areas described above in subsection 2, "Confidential Reporting," Jefferson will be required by law to include all reported sexual misconduct/violence crimes in its annual compilation of campus crime statistics. No personally identifying information of either the person subjected to sexual misconduct or the accused will be included. This statistical report will include only the fact that a crime was reported and its alleged location.

5. Confidentiality

Except as may be permitted to be disclosed under federal, state, or local law or as required to conduct an investigation or engage in the grievance process as contemplated by this policy or any related disciplinary action, the University will keep confidential the identity of the individuals involved in a report of sex or gender-based harassment. This includes the person who has made a report of sex or gender-based harassment, the filing of a formal complaint, any complainant, any individual reported to be the perpetrator of sex or gender-based harassment, any responding party, and any witnesses.

B. Option to Involve Campus Security and Law Enforcement

If you are subjected to Sex and Gender-Based Misconduct, you have the option to report the incident to and seek assistance from law enforcement authorities, including campus security and local police. If you would like to notify the police, campus security is available and willing to assist you in doing so. It is also your right and option, absent an ongoing danger to the university community, to decline to notify campus security or the police of the Sex and Gender-Based Misconduct (note, however, that the crime will likely need to be included, without any personally identifying information, in the University's annual compilation of campus crime statistics).

C. Option to Seek Protection from Abuse Order

If you are subjected to Sex or Gender-Based Misconduct, you may have the option of seeking a Protection from Abuse Order (PFA) from the Philadelphia courts. A PFA may typically require that an abuser not abuse, threaten, harass or stalk the complainant, stay away from the complainant's residence (even if it is also the abuser's residence), stay away from the complainant (including at school or work) and turn weapons over to the police. PFAs may be available to anyone abused by a parent, child, current or former spouse, current or former sexual or intimate partner or others related by blood or marriage. Should an employee or student obtain and notify Jefferson of a PFA, "no-contact," restraining or similar court order, Jefferson's campus security will work with the student or employee to help ensure that the order is honored.

D. Preservation of Evidence

Individuals subjected to sex-related crimes should understand that it is important to preserve any physical or other evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order. Without preservation of such evidence, it may be difficult or impractical to prosecute the perpetrator or obtain a protection order. The Philadelphia Police Department should be contacted, with the complainant's consent, when physical evidence should be preserved, as the Philadelphia Police are best suited to ensure the proper preservation of evidence.

E. Amnesty

The University encourages reporting and seeks to remove any barriers to reporting by making the procedures transparent and straightforward. The University recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report or provide information in connection with an investigation under this Policy because of potential Community Standards consequences for their own conduct. When information regarding one's own personal alcohol or drug usage in violation of the University's Community Standards is provided either through the reporting or investigative process, this information will not be used to pursue any disciplinary action for alcohol or drug use, provided that any such violations did not and/or do not place the health or safety of any other person at risk. To be clear, this amnesty applies to those who in good faith provide information in connection with a report under this policy – whether they are the complainant, respondent, or a third-party.

F. Supportive Measures

Supportive measures are non-disciplinary services offered as needed individually to the parties before or after the filing of a complaint, or where no Formal Complaint (as defined below) has been filed. Supportive measures may be available with respect to academic, living, transportation and working situations. Examples include but are not limited to: counseling, extensions of deadlines or other course-related adjustments, modified school or work schedules, separating the parties, placing limitations on contact between the parties, and housing reassignment. Students will also have access to academic support services and may be given the option to withdraw from a class or take a leave of absence.

The Title IX Coordinator and Deputies will provide supportive measures if a student or employee involved in a sexual misconduct incident requests them and if they are reasonably available, regardless of whether the complainant chooses to report the crime to campus police or local law enforcement, or to file a Formal Complaint. The Title IX Coordinator and Deputies will keep confidential information regarding the supportive measures to the extent they can do so without impairing their ability to provide those measures. Information will be shared only with institutional personnel whom the Title IX Coordinator or Deputies determine have a need to know the information in the course of carrying out their job duties or in providing the supportive measures.

Any student or employee requiring assistance in seeking or obtaining the supportive measures referenced in this section should contact the Title IX Coordinator, who will provide assistance.

G. Emergency Removals

If the University determines that a party poses an immediate threat to the physical health or safety of others arising from the allegations of sex or gender-based misconduct, the University reserves the right to suspend and remove the party from campus. In such instances, the responding party will be provided with written notice as soon as practicable following the removal, which sets forth their rights to immediately appeal the decision.

VIII. Grievance Procedures for Formal Complaints of Sexual Harassment Against Students and Employees

A. Applicability

The following conduct will be addressed under these Grievance Procedures:

Sexual Harassment (as defined above) when all of the following elements are met:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in connection with a Jefferson education program or activity; and
4. The complainant is participating in or seeking participation in a Jefferson education program or activity at the time of the complaint.

After a review of the facts alleged, a threshold determination will be made as to whether the conduct, as alleged, constitutes Sexual Harassment or another type of conduct prohibited under this policy, the Community Standards, or another Jefferson policy, including the Code of Conduct. The parties will be advised in writing if this Grievance Procedure will be applied as a result of the threshold determination. Both parties will have an opportunity to appeal the determination of whether the conduct as alleged constitutes Sexual Harassment under this Policy. Conduct that is deemed not to meet the criteria for proceeding under this Grievance Procedure may still be addressed under another policy or procedure. Information regarding the process for appeals is detailed further under “Appeals” below.

B. Formal Complaint

A formal complaint is a document – including an electronic submission – filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging Sexual Harassment as defined by this Policy and requesting initiation of the procedures under this policy, including investigation and grievance process.

C. Notice of Allegations

After a Formal Complaint is received by the Title IX Coordinator, or signed by the Title IX Coordinator, and is deemed appropriate to handle under this Grievance Procedure, the parties will receive a written Notice of Allegations from the Title IX Coordinator or the Coordinator's designee.

The Notice of Allegations will contain (1) the specific allegations potentially constituting Sexual Harassment, including relevant details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant, and the date and location of the alleged offense, if known; (2) a copy of, or link to, this policy; (3) a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process; (4) a statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney; (5) a statement that before the conclusion of the investigation the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source; (6) the provisions of this policy and any other University policies that the conduct is alleged to have violated; (7) a statement that Community Standards and/or the Code of Conduct prohibits knowingly making false statements or knowingly submitting false information to any University office or official, including during the grievance process; and (8) a request that within five (5) business days of receiving the Notice of Allegations, both the Complainant and the Respondent should identify any academic or other significant conflicts that would affect the timing of the investigation and potential hearing (i.e., clinics, internships, study abroad). The Title IX Coordinator will seek to reach a Non-Hearing Resolution or to complete a hearing within a prompt and equitable timeframe from the date of issuance of the Notice of Allegations.

D. Advisor of Choice and Participation of Advisor of Choice

The University provides both parties with the same right to be accompanied by an advisor of their choice and any restrictions on advisor participation are applied equally. The University has a long-standing practice of having students and employees participate in the process directly and not through an advocate or representative. Students and employees participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing which they are required or eligible to attend. The Advisor of Choice is not an advocate. Except

where explicitly stated by this policy, Advisors of Choice shall not participate directly in the process as per standard policy and practice of the University.

E. Formal Investigation

The formal investigation phase begins after the Title IX Coordinator or designee issues a Notice of Allegations, and determines that informal resolution is either unavailable or unwanted by either of the parties. The formal investigation is the period during which the investigator(s) gathers information about the allegations. Investigations will be performed by the investigator(s) identified by the University, including, but not limited to, trained University personnel. Investigations may include interviews of the complainant, the respondent and any material witness presented by either party and/or the review of any material evidence. Both parties will have the opportunity to present written statements, witnesses (including fact and expert witnesses) and other evidence during the process. The University has the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing a violation of this policy has occurred. These burdens do not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. Should this occur, the decision-maker will render a decision based on the evidence that is both presented and admitted at the hearing without the absent or non-participating party's participation? The Title IX Coordinator or investigator may decline to gather information deemed not relevant to the complaint.

F. Review of Evidence and the Investigative Report

At the conclusion of the investigation, the investigator(s) will prepare a draft factual investigative report. Both parties will be provided a copy of the draft report for confidential review along with an opportunity to review the evidence obtained through the investigation. The parties may not share the draft report or evidence with anyone other than their families and advisors, who are subject to the same strictly enforced confidentiality requirement. A failure by a family member or advisor to maintain the confidentiality of the draft report or evidence will be deemed a breach by the student.

The purpose of the inspection and review process is to allow each party the opportunity to meaningfully respond to the evidence prior to conclusion of the investigation. Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the University in making a determination regarding responsibility;
2. Inculpatory or exculpatory evidence (i.e., evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

The investigator may set deadlines for the parties to submit any evidence they would like the investigator to consider. The investigator will send the evidence (electronically or in hard copy)

to each party and their advisor, if any, to review. Limitations or restrictions on access will be at the sole discretion of the University. The parties will have ten (10) calendar days to inspect and review the evidence and submit any written response or comments by email to the investigator, should they wish to do so. The investigator will consider the parties' written responses before completing the investigative report. The final report will be provided to both parties, subject to the same confidentiality restrictions outlined in this subsection relative to the draft report. The University will provide the parties up to ten (10) calendar days to provide any additional response, after which the investigator will not be required to accept a late submission.

G. Potential Outcomes of the Investigation

No Charge Decision, Non-Hearing Resolution, Charge Decision, Withdrawal of Complaint

Following an investigation, or possibly during the investigation in the event of a Non-Hearing Resolution or withdrawal of the complaint, the Title IX Coordinator will adopt one of the following options:

1. No Charge Decision

If the Title IX Coordinator concludes that specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or the allegations, the Title IX Coordinator will issue a No Charge Outcome Letter. This Outcome Letter can be appealed. Please see the Appeals section of the policy for more information.

2. Non-Hearing Resolution

The Title IX Coordinator and/or Deputies may explore with the parties the possibility of a resolution without a hearing. If a non-hearing resolution is reached, the terms of the agreement must be reduced to writing and signed by both parties.

3. Charge Decision or Decision to Proceed to a Hearing

The Title IX Coordinator will notify the Complainant and the Respondent, in writing, that a decision to charge the Respondent has been made and that the matter will be proceeding towards a Hearing. The Charge and Pre-Hearing Letter will then contain (1) the specific allegations of Sexual Harassment; and (2) the provisions of this policy and any other University policies that the conduct is alleged to have violated.

4. Withdrawal of a Complaint

A Complainant may notify the Title IX Coordinator at any time that the Complainant does not wish to proceed with the investigation and/or hearing process. If such a request is received, the Title IX Coordinator will inform the Complainant that the University's ability to respond to the allegation may be limited if the allegations are withdrawn.

In the event that the Title IX Coordinator determines that the investigation will continue despite the withdrawal, the Title IX Coordinator will notify the Complainant of that determination. The Title IX Coordinator will include in that notification a statement that the Complainant is not required to participate in the investigation and/or hearing process but that the process will continue. Please see the Confidentiality Section.

IX. Hearing

A. Hearing Schedule

The Title IX Coordinator will seek to reach a Resolution within a prompt and equitable timeframe following the issuance of the Notice of Allegations, and will endeavor to resolve the matter within 90-120 business days. This timeline may be extended for University breaks or other reasonable delays, such as extensions granted to the parties upon a showing of good cause (discussed in section 2. below). If a deadline falls on a weekend or holiday, there will be an automatic extension to the next business day.

At the time a case is either charged by the conduct administrators or is determined to be proceeding towards a hearing a timetable will be issued that schedules all key dates for the matter. In preparing the timetable, the University will consider any academic and other conflicts identified by the parties in response to the Notice of Allegations. Unless an extension is granted based on a showing of good cause, the parties are obligated to follow the Hearing Schedule.

B. Extensions

Extensions are only granted for good cause. A request for an extension must be made, in writing and with reasons provided, to the Title IX Coordinator. The Title IX Coordinator will normally respond to an extension request in writing within two (2) business days.

X. Hearing Process

A. Grievance Procedures

Hearings on charges of Sexual Harassment in violation of this policy are presided over by a single decision-maker appointed by the University and specifically trained in matters related to sex and gender-based misconduct. The decision-maker shall make findings of fact and conclusions as to whether the facts support a finding of responsibility for Sexual Harassment based on a preponderance of the evidence standard.

The live hearings will be presided over by the assigned decision-maker, who will make decisions on admissibility of evidence, propriety of questions, and, ultimately, on responsibility for violating the Policy. The decision-maker will not determine or impose the sanction. Rather, any sanction will be determined by the University upon the decision-maker's finding of responsibility.

The live hearing may be conducted with all parties physically present in the same geographic location. At the request of either party, the parties may be located in separate rooms. Additionally, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. In the event the parties are in separate rooms or the hearing is held virtually, technology will enable participants to see and hear each other. All proceedings will be audio-recorded. That recording will be made available to the parties for inspection and review upon request.

B. Participants at the Live Hearing

The only individuals permitted to participate in the hearing are as follows:

1. Complainant and Respondent (The Parties)

- The parties cannot waive the right to a live hearing unless they mutually agree to pursue an informal non-hearing resolution.
- The institution may still proceed with a live hearing in the absence of a party, and may reach a determination of responsibility in the party's absence, including through any evidence gathered that does not constitute a "statement" by that party.
- The University will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation.
- If a party does not submit to cross-examination, the decision-maker cannot rely on statements made by that party outside of the hearing, including statements made to the Title IX Coordinator and/or investigator, in reaching a determination regarding responsibility. The decision-maker may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party.
- The decision-maker will not draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions. In such instances, the decision-maker will be required to render a finding based on the evidence introduced at the hearing.

2. The Decision-maker

- The hearing will be presided over by a single decision-maker appointed by the University who is someone other than the Title IX Coordinator, the investigator, or advisor to any party in the case.
- The decision-maker will be free from conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The decision-maker will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.

The University will generally apprise the parties of the identity of the decision-maker in accordance with the following timeline:

- The Title IX Coordinator or designee will release the name of the decision-maker to the parties and the names of the parties and witnesses to the decision-maker five (5) business days before a hearing. A hearing date will also be identified.
- All parties have two (2) business days to indicate any conflict of interest. A conflict of interest may exist if the decision-maker has substantial prior involvement in or knowledge of the allegations at issue in the case, has a personal relationship with one of the parties or witnesses, or has some other source of actual or objectively

perceived bias. If such a conflict is found by the University to exist, an alternate decision-maker will be appointed. Appointment of an alternate decision-maker may require a rescheduled hearing date.

3. Advisor of Choice at Hearing

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney. The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination at the live hearing.
- The advisor selected by a party for purposes of attending the hearing, if any, and conducting cross-examination, need not be the same advisor who may have accompanied the parties to any meeting earlier in the process, so long as the advisor has been identified in advance.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not have an advisor for the purpose of the hearing, the University will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- Advisors may be required to meet with the Title IX Coordinator to review rules of decorum and the scope of their role in advance of a hearing and advisors may be removed from a hearing upon violation of those roles.

4. Witnesses

- Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.

C. Hearing Procedures

1. Procedures

For all live hearings conducted under these Grievance Procedures, the procedure will be as follows:

- The decision-maker will open and establish rules and expectations for the hearing;
- The parties will each be given the opportunity to provide opening statements;
- The decision-maker will ask questions of the parties and witnesses;
- Parties, through their advisors only, will be given the opportunity for live cross-examination after the decision-maker conducts their initial round of questioning; during the parties' cross-examination, the decision-maker will have the authority to pause cross-examination at any time for the purposes of asking the decision-maker's own follow up questions; and any time necessary in order to enforce the established rules of decorum.
- Should a party or the party's advisor choose not to cross-examine a party or witness, the party shall affirmatively waive cross-examination through a written or oral statement to the

decision-maker. A party's waiver of cross-examination does not eliminate the ability of the decision-maker to use statements made by the party or witnesses.

2. Live Cross-Examination Procedure

- Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live cross-examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility, directly, orally, and in real time.
- Before any cross-examination question is answered, the decision-maker will determine if the question is relevant and otherwise permissible. Cross-examination questions that are duplicative of those already asked, including by the decision-maker, may be deemed irrelevant if they have been asked and answered. Impermissible questions will not be answered.

3. Determination Regarding Responsibility

- The University uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this policy. This means the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.
- The written Determination regarding responsibility will be issued simultaneously to all parties through their email account, or by other means as necessary or advisable in the discretion of the Title IX Coordinator. The Determination will include:
 - i. Identification of the allegations potentially constituting Sexual Harassment;
 - ii. A description of the procedural steps taken from the receipt of the formal complaint through the Determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - iii. Findings of fact supporting the Determination;
 - iv. Conclusions regarding which section, if any, of this Policy, the Community Standards or any other relevant Jefferson policy the respondent has violated.
 - v. For each allegation:
 - A statement of, and rationale for, a determination regarding responsibility;
 - A statement of, and rationale for, any disciplinary sanctions the University imposes on the respondent (see subsection (a) below);
 - A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by Jefferson to the complainant; and
 - The University's procedures and the permitted reasons for the complainant and respondent to appeal the Determination (Described below in "Appeal").

XI. Imposition of Penalty or Discipline

If the decision-maker concludes that Sexual Harassment has occurred, an appropriate University official will determine the penalty or sanction to be imposed. More than one sanction may be imposed for any single violation. The sanction(s) will be included in the written Determination.

A. Student Discipline

Sanctions against students may include, but are not limited to: expulsion, suspension, deferred suspension, loss of housing, deferred loss of housing, ban from housing and residence halls, housing reassignment, restricted access, disciplinary probation, assignment of educational tasks, hold on records, notification of parent or legal guardian, fine, restitution, and disciplinary reprimands.

B. Employee Discipline

Sanctions against employees may include, but are not limited to: a written warning, educational requirements, formal performance improvement plan, restitution, suspension, termination.

C. Dismissal for Cause

The Dismissal for Cause Policy set forth in the Faculty Handbook applies in instances where the termination of a faculty member is the recommended sanction.

XII. Appeal

A. Process for Appeal

Consistent with the limitations identified below, either party may appeal (1) the threshold determination at the beginning of the process as to whether the allegations contained in a Formal Complaint constitute Sexual Harassment, as alleged, or (2) a determination regarding responsibility rendered by the decision-maker following the hearing at the end of the grievance process. A party must submit their written appeal within five (5) business days after being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

1. Procedural irregularity that affected the outcome of the matter (i.e., a failure to follow the University's procedures);
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; or
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

A copy of the appeal will be provided to the non-appealing party. The non-appealing party will have five (5) business days to prepare and submit a response to the Title IX Coordinator.

B. Appeal Decision

The Provost, or designee, will review all appeals and will provide the final appeal decision usually within fifteen (15) business days after receipt of all appeal documents. As needed, the Provost or designee will consult with the Title IX Coordinator regarding the management of ongoing remedies. The Provost or designee may reject the appeal in whole or in part, issue a new decision regarding responsibility, issue new or revised sanctions and penalties, or refer the matter to a new hearing. The decision by the Provost, or Provost's designee, is the final decision and is not subject to further appeal.

XIII. Ongoing Management

If there is a finding of responsibility, the Title IX Coordinator will work collaboratively with the Dean of Students, Human Resources, Faculty Affairs, and/or Provost's Office to ensure ongoing administration and enforcement.

XIV. Jefferson's Prevention and Awareness Programs

As part of its effort to protect students and employees from sexual misconduct and sexual violence, Jefferson provides prevention and awareness training to all incoming students and employees on issues related to these offenses.

The first training occurs during orientation and then ongoing programming is provided both in-person and online. On-campus programming is provided in bystander intervention, domestic violence, self-defense, and through speakers related to sexual misconduct. All programming is advertised widely on campus and designed to promote awareness of and prevent Sexual Misconduct.

XV. Campus and Community Services

Campus/community services are available for immediate and ongoing support to address problems related to Sexual Misconduct. Following are examples of available services, both within the University and in the external community:

1. **Thomas Jefferson University Hospital's Emergency Department** (215-955-6840) provides emergency medical services. It is located at 132 South 10th Street, Philadelphia, PA.
2. **The Student Personal Counseling Center (SPCC)** in Center City offers a variety of counseling and support services to help students in times of need (215-503-2817). Students can also call 215-955-HELP for counseling, health services, and support group information at Jefferson.

3. **Jefferson Counseling Services** in East Falls (www.philau.edu/counseling) can be contacted at 215-951-2868 or CounselingServices@PhilaU.edu.
4. **Jefferson University Student Health Services** at East Falls (www.philau.edu/healthservices) is located in Scholler Hall and can be reached at 215- 951-2986 or HealthServices@PhilaU.edu.
5. **Jefferson Occupational Health Network (JOHN)** in Center City provides medical care for Jefferson students (215-955- 6835). It is located at 833 Chestnut Street, Suite 205, Philadelphia, PA.
6. **Philadelphia Center Against Sexual Violence (WOAR)** is Philadelphia's only rape crisis center and can be reached through a 24-hour hotline at 215-985-3333. WOAR provides free counseling and offers support during forensic rape examinations and any future court proceedings.
7. **Philadelphia Sexual Assault Response Center** (215-800-1589) is a private, not-for-profit center whose mission is to provide expertise in the assessment and evaluation of sexual assault victims in Philadelphia. The center is staffed 24 hours a day, 7 days a week by on- call, specially trained and experienced Sexual Assault Nurse Examiners who provide forensic rape examinations. PSARC cares for victims regardless of their cooperation with law enforcement. PSARC is located at 300 E. Hunting Park Avenue, Philadelphia, PA 19124. In an emergency, call 215-425-1625 to reach the on-call sexual assault nurse examiner.
8. The **Rape, Abuse, and Incest National Network (RAINN)** operates the National Sexual Assault Hotline at 1.800.656.HOPE and offers online support, such as online counseling and assistance finding a local counseling center, at www.rainn.org.
9. The **National Domestic Violence Hotline** (800-799-7233) has highly trained expert advocates available 24 hours a day to talk confidentially with anyone experiencing domestic violence, seeking resources or information, or questioning unhealthy aspects of their relationship.
10. **Jefferson's Office of International Affairs** (215-503-4335) works with all University departments and individuals to facilitate

exchange and to offer assistance with visa and immigration issues. OIA is located at M-70 Jefferson Alumni Hall, 1020 Locust Street, Philadelphia, PA.

11. The **Nationalities Service Center** (215-893 – 8400) is a non-profit organization that provides social, educational and legal services to immigrants and refugees in the Greater Philadelphia area. It is located at 1216 Arch Street, 4th Floor, Philadelphia, PA.
12. The **Philadelphia Bar Association** (215-238-6333) is available to provide referrals to attorneys to assist with legal problems in and around Philadelphia.
13. **Philadelphia Legal Assistance** (215-981-3800) provides free civil legal assistance to low- income individuals and families in Philadelphia. Its offices are located at 718 Arch St #300N, Philadelphia, PA
14. **Community Legal Services of Philadelphia** (215-981-3700) also provides free legal assistance in civil matters to low-income Philadelphia residents. Its offices are located at 1424 Chestnut St., Philadelphia, PA.
15. **Office of Student Financial Aid for Center City** (215-955-2867) and East Falls (215-951- 2940) assists students in securing financial aid and acts as an educational debt management resource for students. It may be able to assist with financial aid issues stemming from incidents of Sexual Misconduct. The Center City office is located in the Curtis Building, Suite 115, 1015 Walnut Street, and East Falls office is 4201 Henry Ave in White Corners.
16. **Mazzoni Center** (215-563-0652) provides quality comprehensive health and wellness services in an LGBTQ-focused environment, while preserving the dignity and improving the quality of life of the individuals we serve.
17. **Philadelphia’s Office for Civil Rights** (215-656-8541) mission is to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation’s schools.
18. **Philadelphia Police Special Victims Units** (215- 685-3251)