



**EQUAL OPPORTUNITY, HARASSMENT AND
NONDISCRIMINATION POLICY
FOR ALL STUDENTS, FACULTY & STAFF**

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Equal Opportunity, Harassment and Nondiscrimination Policy

As used in this document, the term “reporting party” refers to the person impacted by alleged discrimination. The term “responding party” refers to the person who has allegedly engaged in discrimination.

Applicable Scope

National University affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the University’s Equity Resolution Process (ERP) as detailed. When the responding party is a member of the University community, the ERP is applicable regardless of the status of the reporting party who may be a member or non-member of the campus community, including students, student organizations, faculty, administrators, staff, guests, visitors, etc.

Applicable Laws

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex/gender in education programs or activities operated by recipients of federal financial aid. Sexual harassment and misconduct are a form of sex/gender discrimination prohibited by Title IX, and Title IX prohibits sex/gender discrimination in both educational and employment settings. The Violence Against Women Reauthorization Act of 2013 (VAWA) became effective March 7, 2014, and covers domestic violence, dating violence, sexual assault, and stalking. Any complaints of Sexual Misconduct or other items covered under VAWA must be promptly reported to the Title IX Coordinator or Deputy(s).

Title IX Coordinator

The Title IX Coordinator and Deputy Coordinators oversee implementation of the University’s policies on harassment and nondiscrimination. The Title IX Coordinator and Deputy Coordinators act with independence and authority, free of conflicts of interest. To raise any concern involving a conflict of interest by the Title IX Coordinator, contact the University President (contact information below). To raise concerns regarding a potential conflict of interest with any other administrator involved in the ERP, please contact the Equity Officer.

Inquiries about and reports regarding this policy and procedure may be made internally to:

Title IX Coordinator

Dr. Joseph Zavala
Vice President, Student Services
National University
11255 N. Torrey Pines Rd.
La Jolla, CA 92037
(858) 642-8024
Email: jzavala@nu.edu

Deputy Title IX Coordinator

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Deputy Title IX Coordinator

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Deputy Title IX Coordinator

Pedro Rubio
Director of Student Affairs
National University
11255 N. Torrey Pines Rd.
La Jolla, CA 92037
(858) 642-8075
Email: prubio@nu.edu

Inquiries may be made externally to:
Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights (OCR)
San Diego Local Office
555 West Beech Street, Suite 504,
San Diego, CA 92101
Phone: (800) 669-4000

Fax: (619) 557-7274
TTY: (800) 669-6820

Equal Employment Opportunity Commission (EEOC)
Contact: <http://www.eeoc.gov/contact/>

Reporting Discrimination, Harassment and/or Retaliation

Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the University's jurisdiction, the ability to investigate, respond and provide remedies may be more limited:

- 1) Report online, via the [Student Conduct page](#) or the [Office of Student Affairs page](#) by pressing the "*File an Incident Report*" button; and/or by following this link: https://cm.maxient.com/reportingform.php?NationalUniv&layout_id=0
- 2) Report directly to the Title IX Coordinator or any Deputy Title IX Coordinator;
- 3) Report by emailing the Civil Rights Team at CivilRightsComplaints@nu.edu.

All reports are acted upon promptly while every effort is made by the University to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Additionally, all employees of the University are designated as mandated reporters and will share a report with the Title IX Coordinator or a Deputy promptly. Confidentiality and mandated reporting are addressed more specifically below. Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the University President.

Office of the President

11255 North Torrey Pines Road
La Jolla, CA 92037-1011
(858) 642-8802

Anonymous Reports

A person may report an incident without disclosing his/her name, identifying the respondent, or requesting any action. While anonymous reports are accepted, the University may be limited in its ability to investigate and respond to any incident that is reported anonymously. The University will balance any request from a reporting party to remain anonymous against its obligations to afford a responding party fundamental fairness by providing notice and an opportunity to respond to allegations before any action is taken against them. In the event that the circumstances of the complaint dictate a full investigation, the University will take all actions necessary to conduct the investigation, which may include disclosing the identity of the reporting party and other steps that might compromise their request for confidentiality and anonymity. Reports that are made anonymously or by third parties may not initiate the formal ERP process. The University may

undertake an initial assessment even in cases where the reporting party chooses not to cooperate or participate.

Jurisdiction

This policy applies to behaviors that take place on the campus, at University sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law.
2. Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
3. Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
4. Any situation that is detrimental to the educational interests of the University.

Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of the University's control (e.g. not on University networks, websites or between University email accounts) will only be subject to this policy when those online behaviors can be shown to cause a substantial on-campus disruption. Otherwise, such communications are considered speech protected by the 1st Amendment. Remedies for such conduct will be provided, but protected speech cannot be legally subjected to discipline. Off-campus discriminatory or harassing speech by employees may be regulated by the University only when such speech is made in an employee's official or work-related capacity.

For situations where a reporting and/or responding party have multiple roles at the university, the context of the alleged interactions will determine the appropriate process. In any of these circumstances, the University will address the situation in the context of the roles of the parties that pertain to the conduct in question when considering remedies for the reporting party and potential discipline of the responding party.

Nondiscrimination Policy

National University adheres to all federal and state civil rights laws prohibiting discrimination in private institutions of higher education. The University will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, religion, color, sex, pregnancy (including childbirth and related medical conditions), creed, ethnicity, national origin (including ancestry), citizenship status, disability, age, marital status, sexual orientation, gender, gender identity/expression, veteran or military status, genetic information, domestic violence victim status or any other protected category under applicable local, state or federal law.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community who acts to deny, deprive or limit the educational, employment, and/or social access, benefits and/or opportunities of any member of the campus

community, guest or visitor on the basis of their actual or perceived membership in the protected classes listed above is in violation of the Nondiscrimination Policy. When brought to the attention of the University, any such discrimination will be appropriately addressed and remedied, according to the Equity Resolution Process (ERP), described below. Non-members of the National University community who engage in discriminatory actions within university programs or on university property are not under the jurisdiction of this policy but can be subject to actions that limit their access and/or involvement with University programs as the result of their misconduct. All vendors serving the University through third-party contracts are subject by those contracts to the policies and procedures of their employers or to these policies and procedures, if their employer has agreed to be bound.

Discriminatory Harassment Policy

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. National University's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University policy.

Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by University policy as well as the law. National University condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by policy or law. When harassment rises to the level of creating a hostile environment, National University may impose sanctions on the harasser through application of the ERP. National University's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent/pervasive, and objectively offensive such that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

The University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may not result in the imposition of discipline under this policy, but will be addressed through respectful confrontation, remedial actions, education and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the University Ombudsman at (858) 642-8368 or ombuds@nu.edu.

Sexual Harassment

Sexual harassment is a form of sex/gender discrimination and, therefore, an unlawful discriminatory practice. National University has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.

Sexual harassment is:

- unwelcome,
- sexual, sex-based and/or gender-based,
- verbal, written, online and/or physical conduct.

Anyone experiencing sexual harassment in any National University program is encouraged to report it immediately to the Title IX Coordinator. Remedies, education and/or training can be provided in response. Sexual harassment may be disciplined when it takes the form of *quid pro quo* harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- Severe, or
- persistent or pervasive, and
- objectively offensive, such that it:
 - unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational, employment, and/or social programs.

Quid Pro Quo Sexual Harassment:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance.

Consensual Relationships Policy

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. The University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the University. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes teaching assistants and/or any students over whom faculty or staff have direct responsibility. While no relationships are prohibited by this policy, failure to timely self-report such relationships to a supervisor as required may result in disciplinary action for an employee. Violation(s) of this policy between employees is an HR/Employee Relations Matter and will not be addressed under the ERP unless the elements of *Quid Pro Quo* harassment are met. Violation of this policy will be addressed through Human Resources processes.

Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, National University has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, National University considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students, and termination for employees. However, the University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation and/or gender identity of those involved.

Violations include:

- i. Sexual Harassment (as defined in section b above)**
- ii. Non-Consensual Sexual Intercourse**

Defined as:

- any sexual intercourse
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force
 - The use of physical force constitutes a stand-alone non-sexual offense as well, and those who use physical force face not just the sexual misconduct allegation, but allegations under the appropriate Code of Conduct for the additional assaultive behavior

Sexual intercourse includes:

- Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

iii. **Non-Consensual Sexual Contact**

Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes:

- Intentional contact with the breasts, groin, or genitals, mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
- Any other bodily contact in a sexual manner.

iv. **Sexual Exploitation**

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact.

v. **Force and Consent**

Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you.” “Okay, don’t hit me, I’ll do what you want.”).

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

Consent: Consent is affirmative, conscious, knowing, voluntary, and clear permission and agreement by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent must be ongoing throughout any sexual conduct, and can be withdrawn once given, as long as the withdrawal is clearly communicated. Consent to some sexual contact (such as kissing or fondling) cannot be

presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

The age of consent in California is 18. It is illegal for anyone to engage in sexual intercourse with a minor (someone under the age of 18), unless they are that person's spouse. This means that sexual contact by an adult with a person younger than 18 years old is may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

Other Civil Rights Offenses

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party's actual or perceived membership in a protected class.

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit or deny other members of the community of educational or employment access, benefits or opportunities;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy);
- Bullying, defined as
 - Repeated and/or severe

- Aggressive behavior
- Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally
- That is not speech or conduct otherwise protected by the 1st Amendment.
- Intimate Partner Violence, defined as violence or abuse between those in an intimate interaction and/or relationship to each other;
- Stalking
 - Stalking 1:
 - A course of conduct
 - Directed at a specific person
 - On the basis of actual or perceived membership in a protected class
 - That is unwelcome, AND
 - Would cause a reasonable person to feel fear
 - Stalking 2:
 - Repetitive and Menacing
 - Pursuit, following, harassing and/or interfering with the peace and/or safety of another

Sanctions for the above-listed “Other Civil Rights Behaviors” behaviors range from reprimand through expulsion (students) or termination of employment.

Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation or for assisting in providing information relevant to a claim of harassment is a serious violation of National University policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator or Deputy Coordinators and will be promptly investigated. National University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Remedial Action

Upon notice of alleged discrimination, the University will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, academic support, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and/or community support resources. National University will take additional prompt remedial and/or disciplinary action with respect to any member of the University community, guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation. The panel of deputies will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the University’s ability to provide the

accommodations or protective measures. Procedures for handling reported incidents are fully described below.

Confidentiality and Reporting of Offenses Under This Policy

All National University employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials – thereby offering options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared. Other resources exist for reporting parties to report crimes and policy violations and these resources will take action when an incident is reported to them.

The following describes the reporting options at National University:

Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- On-campus: The Office of the University Ombudsman serves as a neutral, impartial, and unaligned party in the resolution of complaints and/or concerns. All communications with the Ombudsman are held in strict confidence. You may contact the National University Ombudsman at (858) 642-8368 or ombuds@nu.edu. Please note that the security of electronic communication cannot be guaranteed. Calling the Ombudsman’s confidential line is the most secure communication method.

- Off-campus:
 - Licensed professional counselors
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. The Employee Assistance Program (EAP) is available to help employees free of charge and can be seen on an emergency basis during normal business hours. National University employees listed above will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client.

Formal Reporting Options

All National University employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be reported to

the Title IX/Civil Rights team. Employees must promptly report all details of the allegations they receive with through the Maxient online reporting tool. Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or advocacy events do not provide Notice to the University that must be reported by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal University action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. National University's ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the ERP.

In cases indicating pattern, predation, threat, weapons and/or violence, National University will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow National University to honor that request, the University will offer interim supports and remedies to the reporting party and the community but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by National University, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporting party, and only a small group of officials who need to know will be told, including but not limited to certain employees in the following departments: Office of Equity, Diversity and Inclusion, Division of Student Services, NUS Compliance Officer, NUS Director of Security and if necessary NUS General Counsel. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the online reporting form posted at https://cm.maxient.com/reportingform.php?NationalUniv&layout_id=0. Note that these anonymous reports may prompt a need for the institution to investigate.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of National University policy and can be subject to disciplinary action for failure to comply.

Federal Timely Warning Obligations

Parties reporting sexual misconduct should be aware that under the Clery Act, National University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. National University will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

False Allegations

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Amnesty for Reporting Party and Witnesses

The National University community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to University officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to university officials, and that witnesses come forward to share what they know. To encourage reporting, National University pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident.

Students: Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to campus administrators). The University pursues a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, the university will provide educational options, rather than punishment, to those who offer their assistance to others in need.

Employees: Sometimes, employees are also hesitant report harassment or discrimination they have experienced for fear that they may get themselves in trouble. For example, an employee who has violated the Consensual Relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to University officials. The institution may, at its discretion, offer employee reporting parties amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to witnesses on a case-by-case basis.

Parental Notification (allegations involving students)

National University reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the University will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The University also reserves the right to designate which University officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act.

Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities (CSA's)- have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical

information must be passed along to the Director of Security regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student affairs/student conduct, campus security officers, local police, coaches, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Equity Resolution Process (ERP) for Allegations of Harassment, Sexual Misconduct and Other Forms of Discrimination

National University will act on any formal or informal allegation or notice of violation of the policy on nondiscrimination, that is received by the Title IX Coordinator, Deputy, a member of the administration, or other employee. All discrimination allegations are exempt from other student/staff/faculty complaint/grievance processes and replaced with the Equity Resolution Process (ERP) outlined herein.

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class involving students, staff or faculty members. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty and staff handbooks or codes of conduct.

Overview

Upon notice to the panel of Deputies, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the University will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determine whether the Nondiscrimination Policy has been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

Equity Resolution Process (ERP)

Allegations under the policy on nondiscrimination are resolved using the ERP. Members of the ERP pool are announced in an annual distribution of this policy to the NU community, prospective students, their parents and prospective employees. The list of members and a description of the panel can be found at www.nu.edu/ERP. Members of the ERP pool are trained in all aspects of the resolution process, and can serve in any of the following roles, at the direction of the panel of deputies:

- To provide sensitive intake for and initial advice pertaining to allegations

- To serve in a mediation or restorative justice role in conflict resolution
- To investigate allegations
- To act as process advisors to those involved in the Equity Resolution Process
- To serve on appeal panels for allegations

ERP pool members also recommend proactive policies and serve in an educative role for the entire National University community. The panel of deputies appoints the ERP pool, all of whom report to the Title IX Coordinator for this process. ERP pool members receive annual training organized by the Equity Officer, including a review of National University policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety and promote accountability. This training will include but is not limited to: how to appropriately remedy, investigate, render findings and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations; the university's discrimination and harassment policies and procedures (including sexual misconduct); confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance. All ERP pool members are required to attend this annual training to be eligible to serve.

The ERP pool includes:

- 2 Co-chairs: one representative from HR and one from Student Services, etc., who are *ex officio* members and who respectively Chair Appeal Panel hearings for allegations
- At least three (3) members of Academic Affairs
- At least five (5) members of Student Services
- At least one (1) representative from Security
- At least two (2) representatives from Human Resources

ERP pool members are usually appointed to three-year terms. Individuals who are interested in serving in the pool are encouraged to contact the Equity Officer. No member of the pool may be a practicing attorney.

Reporting Misconduct

Any member of the community, guest or visitor who believes that the policy on nondiscrimination has been violated should contact the Title IX Coordinator or a Deputy by using the following University link https://cm.maxient.com/reportingform.php?NationalUniv&layout_id=0 which may serve to initiate the resolution process.

It is also possible for employees to notify a supervisor, or for students to notify an Academic Advisor or Faculty Member. All employees receiving reports of a potential violation of a National University policy are expected to promptly file a report using the following link University link https://cm.maxient.com/reportingform.php?NationalUniv&layout_id=0, within 48 hours of becoming aware of a report or incident. All initial reports will be treated with privacy: specific information on any allegations received must be reported but, subject to the University's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an

allegation. In all cases, National University will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

Preliminary Inquiry

Following receipt of notice or a report of misconduct, the panel of deputies will assign two (2) members of the ERP pool to engage in a prompt preliminary inquiry, to determine if there is reasonable cause to believe the Nondiscrimination Policy has been violated. This inquiry may also serve to help the panel of Deputies to determine if the allegations have evidence of violence, threat, pattern, predation and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the panel of Deputies may respect a reporting party's request for no action and will investigate only so far as necessary to determine appropriate remedies. As necessary, the University reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

In cases where the reporting party wishes to proceed, or the University determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the assigned ERP pool members will recommend to the panel of Deputies that a formal investigation commence, and the allegation will be resolved through one of the processes discussed briefly here and in greater detail below:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution
- Administrative Resolution – resolution by a trained administrator

The process followed considers the preference of the parties but is ultimately determined at the discretion of the panel of Deputies. Conflict Resolution may only occur if selected by all parties, otherwise the Administrative Resolution Process applies.

If conflict resolution is desired by the reporting party and appears appropriate given the nature of the alleged behavior, then the case does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Once a formal investigation is commenced, the assigned investigators will provide written notification of the investigation to the responding party at an appropriate time during the investigation. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The reporting party is typically copied on such correspondence. The University aims to complete all investigations promptly, but investigations can be extended as necessary for appropriate cause by the panel of deputies.

If, during the preliminary inquiry or at any point during the formal investigation the panel of Deputies determine that there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests that the University make an extraordinary determination to re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator after consultation with the panel of Deputies.

Interim Remedies/Actions

The Title IX Coordinator or Deputies may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to the Employee Assistance Program
- Education to the National University community
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.
- Referral to off-campus support services

The University may interim suspend a student, employee or organization pending the completion of ERP investigation and procedures, particularly when in the judgment of the panel of Deputies the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the option to meet with the panel of Deputies prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator has sole discretion to implement or stay an interim suspension and to determine its conditions and duration after consultation with the panel of Deputies. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to the University campus/facilities/events. As determined by the panel of Deputies, this restriction can include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

Investigation

Once the decision is made to commence a formal investigation, the panel of Deputies appoints two (2) members of the ERP pool to conduct the investigation. Investigations are completed as expeditiously as possible, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

The University may undertake a delay in its investigation (several days to several weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. National University action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary. The investigators will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with campus partners (e.g.: the panel of Deputies), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all Discrimination, Harassment and/or Retaliation policies allegedly violated;
- Conduct an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy.
 - If there is insufficient evidence to support reasonable cause, the inquiry will be closed with no further action;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the notice of allegation on the basis of the preliminary inquiry;
- Meet with the reporting party to finalize their statement, if necessary;
- If possible, provide written notification to the parties prior to their interviews that they may have the assistance of an ERP pool member or other advisor of their choosing present for all meetings attended by the advisee;
- Provide reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;

- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses.
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Once the report is complete, the report is shared with the parties for their review and comment. The investigators may incorporate feedback from the parties as appropriate;
- Recommend to the panel of Deputies a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- The panel of deputies will finalize and present the findings to the parties, without undue delay between notifications;

At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings after consultation with the panel of deputies.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the University's investigation and the ERP. Failure of a witness to cooperate with and/or participate in the investigation or ERP constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence. No unauthorized audio or video recording of any kind is permitted during investigation meetings or other ERP proceedings.

Advisors

Each party is allowed to have an advisor of their choice present with them for all ERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their Advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness. The Advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community. The panel of Deputies will also offer to assign a trained member of the ERP pool to work as an Advisor for any party. The parties may choose their advisor from the ERP pool, choose a non-trained advisor from outside the pool, if preferred, or proceed without an Advisor.

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one. However, the University maintains a listing of local attorneys who may offer their services pro bono. Additionally, responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The Advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their Advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have and allows the University an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the Advisor will be asked to leave the meeting. When an Advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the Advisor may be reinstated, may be replaced by a different Advisor, or whether the party will forfeit the right to an Advisor for the remainder of the process.

The University expects that the parties will wish to share documentation related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The parties must complete this form before the University is able to share records with an Advisor, though parties may share the information directly with their Advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with 3rd

parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. The University will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available. A party may elect to change advisors during the process and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their Advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

Resolution

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with National University policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose and should discuss doing so with their advisors.

Conflict Resolution

Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX Coordinator or panel of Deputies will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, a trained administrator, typically from the ERP pool or the University Ombudsman will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The panel of Deputies will be provided with records of any resolution that is reached, which will be kept in Maxient and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the panel of deputies believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue conflict resolution first in order to pursue Administrative Resolution, and any party participating in conflict resolution can stop that process at any time and request a shift to Administrative Resolution.

Administrative Resolution

Administrative Resolution can be pursued for any behavior that falls within the Nondiscrimination Policy, at any time during the process. In Administrative Resolution, the panel of Deputies serve as the Resolution Administrators and have the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the policy on nondiscrimination. Accordingly, investigations should be conducted with as wide a scope as necessary.

Administrative Resolution relies on the evidence, information and recommended findings within the investigation report to render a determination. Upon completion of the investigation, the investigators will provide the Resolution Administrators with a written report summarizing the evidence gathered and examined, including an assessment of credibility of the parties and witnesses, an analysis of the information and a recommended finding. The Resolution Administrators will conduct any additional necessary inquiry and then finalize a determination in accordance with the procedures below. The Resolution Administrators will consider, but are not bound by, the recommendations of the investigation.

Any evidence that the Resolution Administrators believe is relevant and credible may be considered, including history and pattern evidence. The Resolution Administrators may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the Resolution Administrators determine it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regard to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will supply the Resolution Administrators with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

Neither the Resolution Administrators nor investigators will meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties. The Resolution Administrators will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or Administrative Resolution process. If the responding party admits responsibility, the Resolution Administrators will render a determination that the individual is in violation of University policy.

If the responding party admits the violation, or is found in violation, the Resolution Administrators, in

consultation with the Title IX Coordinator and others as appropriate, will determine an appropriate sanction or responsive action, will implement it, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence and remedy the effects of the discriminatory conduct.

The Resolution Administrators will inform the parties of the final determination without significant time delay between notifications. Notification will be made in writing in the form of an Outcome Letter and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and any appeals options that are available.

Sanctions

Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the hearing panel
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community

Student Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning*: A formal statement that the behavior was unacceptable and a warning that further infractions of any National University policy, procedure or directive will result in more severe sanctions/responsive actions.
- *Probation*: A written reprimand for violation of the Student Code of Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- *Suspension*: Termination of student status for a definite period of time not to exceed two

years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at University. This sanction may be noted as a Conduct Suspension on the student's official transcript, at the discretion of the Title IX Coordinator.

- *Expulsion*: Permanent termination of student status, revocation of rights to be on campus for any reason or attend University-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma*: The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation or other violation of National University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Withdrawal or Resignation While Charges Pending

Students: The University does not permit a student to withdraw if that student has an allegation pending for violation of the Nondiscrimination Policy. Should a student decide to leave and/or not participate in the ERP, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to University unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any University responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator via the following link https://cm.maxient.com/reportingform.php?NationalUniv&layout_id=1 within five (5) days of the delivery of the written finding of the Resolution Administrators.

Any party may appeal the findings and/or sanctions only under the grounds described, below. A three-member appeals panel chosen from the ERP pool will be designated by the Title IX Coordinator from those who have not been involved in the process previously.

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

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions-imposed fall outside the range of sanctions the University has designated for this offense and the cumulative record of the responding party.

The appeals panel will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies), who may file a response within five (5) days and/or bring their own appeal on separate grounds. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) days. These response or appeal requests will be shared with each party.

Where the appeals panel finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the appeals panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for appeals panelists to substitute their judgment for that of the original investigator(s) or Resolution

Administrators merely because they disagree with its finding and/or sanctions.

- Appeals granted based on new evidence should normally be remanded to the investigator(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, heard by the three-member appeals panel.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
 - For students: Graduation, study abroad, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- The Title IX Coordinator will confer with the Appeals Panel, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within five (5) days of the resolution of the appeal or remand.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand. Where appeals result in no change to the finding or sanction, that decision is final. Where an appeal results in a new finding or sanction, that finding, or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
- All parties will be informed in writing within five (5) business days of the outcome of the Appeals Panel, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- In rare cases where a procedural or substantive error cannot be cured by the original investigator(s) and/or Resolution Administrators (as in cases of bias), the appeals panel may recommend a new investigation and/or Administrative Resolution process, including new Resolution Administrators from the ERP pool. The results of a remand cannot be appealed. The results of a new Administrative Resolution process can be appealed, once, on any of the three applicable grounds for appeals.
- In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

Long-Term Remedies/Actions

Following the conclusion of the ERP and in addition to any sanctions implemented, the Equity Officer may utilize long-term remedies or actions stop the harassment or discrimination, remedy its effects and prevent their reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanently altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired))

- Permanently altering work arrangements for employees
- Providing campus escorts
- Climate surveys
- Policy modification
- Providing transportation accommodations
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Equity Officer, long-term remedies may also be provided even when the responding party is found not responsible. The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the panel of deputies. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the panel of deputies.

Records

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept indefinitely in the Maxient database.

Statement of the Rights of the Parties

Statement of the Reporting Party's rights:

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to University officials;
- The right to be informed in advance of any University public release of information regarding the incident;
- The right not to have any personally identifiable information released to the public by the University, without their consent;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right to be offered but not required to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by University officials of options to notify proper law enforcement

authorities, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be offered but not required to report, as well;

- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus officials;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to request a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available).

Accommodations may include:

- Reasonable Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;
 - Transferring class sections;
 - Temporary withdrawal;
 - Alternative course completion options.
-
- The right to have the University maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to investigate, provide the accommodations or protective measures;
 - The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
 - The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
 - The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
 - The right not to have irrelevant prior sexual history admitted as evidence;
 - The right to regular updates on the status of the investigation and/or resolution;
 - The right to have reports addressed by investigators and Resolution Administrators who have received annual relevant training;
 - The right to preservation of privacy, to the extent possible and permitted by law;
 - The right to meetings and/or interviews that are closed to the public;
 - The right to petition that any University representative in the process be recused on the basis of demonstrated bias or conflict-of-interest;

- The right to bring an Advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision by the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

Statement of the Responding Party's rights:

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to University administrators;
- The right to be informed in advance, when possible, of any University public release of information regarding the report;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to timely written notice of all alleged violations, including the nature of the violation, the applicable policies and procedures and possible sanctions;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, prior to final determination, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports addressed by investigators and Resolution Administrators who have received annual training;
- The right to petition that any University representative be recused from the resolution process on the basis of demonstrated bias and/or conflict-of-interest;
- The right to meetings and interviews that are closed to the public;
- The right to have an advisor of their choice to accompany and assist throughout the campus resolution process;
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision of the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

Disabilities Accommodation in the Equity Resolution Process

National University is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the ERP at the University. Anyone needing such accommodations or support should contact the Associate Director of Accessibility Services & Wellness, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation.

Revision

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator, panel of Deputies and other relevant parties. The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties' consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form. This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

This policy and procedure were implemented in September 2018.