



Title IX
Sexual Discrimination, Sexual Harassment & Sexual Misconduct
Policy
Effective August 14, 2020

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I. INTRODUCTION

Hiram College is committed to fostering a safe learning environment that supports the dignity of all members of the Hiram community. Since acts of sex discrimination, including sexual harassment and sexual misconduct disrupt and harm such an environment, the College offers educational programs aimed at reducing the likelihood that such acts occur. This policy and the procedures within are intended to ensure that all parties involved in a Title IX case receive appropriate support and fair treatment, and that allegations of sex discrimination, including sexual harassment and sexual misconduct are handled in a prompt, thorough, and equitable manner.

These procedures will be implemented by officials who receive annual training on the issues related to sexual misconduct, domestic violence, dating violence, and stalking, the scope of the College's education program or activity, and how to conduct an investigation and hearing process that promotes safety, fairness, and accountability.

II. SCOPE OF POLICY

A. SCOPE

This policy applies to all Hiram community members including students, faculty, administrators, staff, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity with the College or on College property ("Hiram Community") related to any incident of alleged sex discrimination, including sexual harassment or sexual misconduct, hereinafter collectively referred to as "sex discrimination," that could impact any student's education opportunities at Hiram, any employee's work environment, or anyone else's opportunity to access the College's programs.

This policy is intended to protect and guide individuals who have been affected by sex discrimination, whether as a Complainant, a Respondent, or as a witness, and to provide fair and equitable procedures for investigation and resolution of reports.

Hiram College will provide all students, employees, and applicants for admission and employment of the name, title, office address, email address, and telephone number of our Title IX Coordinator. The College's website will contain this information as well as after-hours contact and emergency information.

B. APPLICATION OF POLICY

This policy shall apply to all Reports received on or after August 14, 2020. It shall not apply to Reports received prior to August 14, 2020 as the prior policy shall apply to those cases.

C. OVERVIEW OF POLICY & KEY DEFINITIONS

Overview

Hiram College will investigate all Formal Complaints of sex discrimination received. Hiram is authorized to take certain actions to address or remedy sex discrimination even if the matter does not proceed to a Formal Complaint.

Hiram College will not tolerate sex discrimination, which is prohibited, and which includes, but is not limited to, sexual misconduct, domestic violence, dating violence, sexual assault, sexual exploitation, sexual harassment, and stalking. Hiram strongly encourages students to report instances of sexual misconduct immediately. Employees are required to report such instances. The Title IX Coordinator will initiate an investigation anytime a Formal Complaint is made, or where failure to investigate would be clearly unreasonable given the seriousness of the conduct and/or ongoing safety risks to students or staff.

In addition to addressing the health and well-being needs of those involved in an incident, the campus takes seriously its responsibility to initiate the appropriate investigation(s) and Campus Judicial System processes. Complainants who file a Formal Complaint with the College are not precluded from pursuing a criminal complaint simultaneously. It should also be noted that the College is required to notify local law enforcement of any reported incidents of considerable physical harm.

Hiram College will review, evaluate, and make revisions and amendments to this policy on an ongoing and as-needed basis.

General inquiries about the application of this policy should be directed to the College's Title IX Coordinator:

Martha Schettler, Title IX Coordinator
Director of Events and Conferences
Hiram College
Kennedy Center
PO Box 67
Hiram, OH 44234
330-569-6116
SchettlerMA@hiram.edu

Key Definitions

A “**Complainant**” refers to an individual who is alleged to be the victim of conduct that could constitute sex discrimination. A Complainant has certain rights under this policy, as discussed below.

A “**Report**” becomes a “**Formal Complaint**” when the Complainant or Title IX Coordinator files a written document describing an incident of sex discrimination.

A “**Respondent**” refers to an individual who has been accused of prohibited conduct under this policy. A Respondent has certain rights under this policy, as discussed below.

A “**third party**” refers to any other participant in the process, including a witness to the incident or an individual who makes a Report on behalf of someone else.

III. JURISDICTION

All Hiram College community members are required to follow College policies and federal, state, and local law. This policy applies to all members of the Hiram Community and applies to conduct occurring on Hiram College property; at College-sanctioned events or programs that take place off campus, including, for example, internship programs; or at events or programs hosted by College-recognized organizations that take place off campus. This policy may apply regardless of the location of the incident if it occurs as part of the College’s “operations,” the College exercised control over the situation and the Respondent, or the incident occurs in an off-campus building owned and/or operated by a recognized student group. The College’s “operations” include online systems, including but not limited to College email accounts, message boards, and course webpages. This policy applies only to Complainants who experience sex discrimination while physically present in the United States.

Hiram, through the Title IX Coordinator, has jurisdiction over and the authority to receive, investigate, hear, and resolve Reports brought by or against any member of the Hiram Community that invoke Title IX. The Title IX Coordinator is ultimately authorized to enact procedures that include specific instructions for reporting, investigating, and resolving Title IX Reports, including those that are received during the non-academic year or that extend into the non-academic year.

IV. TITLE IX COORDINATOR

The Title IX coordinator for Hiram College is Martha Schettler, Director of Events and Conferences.

Ms. Schettler has designated Ed Frato-Sweeney, Director of Residential & Citizenship Education, to coordinate the investigation of any Title IX complaints in which the Respondent is a student.

Ms. Schettler has also designated Karen Holland, Director of Human Resources, to coordinate the investigation of any Title IX complaints in which the Respondent is a College faculty member or staff member.

V. TITLE IX & NON-DISCRIMINATION

Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity. Title IX prohibits use of federal money to support sex discrimination in education programs and provides individuals effective protection against such practices. Title IX applies, with a few specific exceptions, to all aspects of federally funded education programs and activities. In addition to the traditional education institutions such as colleges, universities, and elementary and secondary schools, Title IX also applies to any education or training program operated by a recipient of federal financial assistance.

Title IX reads as follows: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving federal assistance.”

Consistent with Title IX, Hiram College prohibits all unlawful discrimination, harassment and retaliation on the basis of sex or gender in any employment decision, education program, or educational activity. This policy applies to all members of the Hiram Community.

As part of its commitment to maintaining a community free of discrimination, and in compliance with Title IX’s mandate, Hiram College will address allegations of sexual misconduct or harassment in a timely and effective way, provide resources as needed for affected persons (Reporters, Complainants, Respondents, and third parties within the Hiram Community), and will not tolerate retaliation against any person who reports sex discrimination or sexual misconduct.

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Any individual designated by Hiram to have the authority to address or duty to report sexual misconduct and/or retaliation (known as a “Mandatory Reporter”) and who fails to report such conduct may be subjected to sanctions by the College.

General inquiries about the application of Title IX should be directed to the College’s Title IX Coordinator, Martha Schettler, at SchettlerMA@hiram.edu.

VI. RETALIATION, MISUSE OF CONFIDENTIAL INFORMATION, AND FALSE ACCUSATIONS

Hiram College expressly prohibits retaliation against anyone who: 1) in good faith, reports sex discrimination, 2) participates in any investigation or proceeding under this policy, or 3) opposes conduct that they believe to violate this policy. Retaliation includes intimidation, harassment, threats, or other adverse action or speech against the person who reported the misconduct, the parties, and their witnesses. Hiram will not only take steps to prevent retaliation; it will take strong corrective action if it occurs.

Consistent with FERPA's prohibition on re-disclosure of confidential information, parties, witnesses, advisors, and supporters are prohibited from using or disclosing other people's confidential information, learned as a result of participation in any investigation or proceeding under this policy, outside of such forums, without express consent or for any improper purpose. Hiram College will never use or attempt to use questions or evidence that is protected by a legally recognized privilege, unless the person holding the privilege waives the privilege. Additional privacy protections include records made or maintained by a physician, psychiatrist, or other recognized professional and made for the purpose of providing treatment. These records will only be accessed with a party's voluntary, written consent.

Anyone who believes they have been the victim of retaliation should immediately report it to the Title IX Coordinator, who shall treat it as a Report. Any individual found to have retaliated against another individual will be in violation of this policy and will be subject to disciplinary action, up to and potentially including termination of employment for employees and expulsion for students.

Anyone who knowingly makes a false accusation of unlawful sexual harassment or retaliation of any form will be subject to an investigation for a potential violation of this policy and may be subject to disciplinary action, up to and potentially including termination of employment for employees and expulsion for students.

VII. TIME CONSIDERATIONS FOR REPORTING SEX DISCRIMINATION

There is no time limit for reporting incidents of sex discrimination under this policy, although Hiram encourages reports to be made as soon as possible. Any individual who has been subjected to, or who knows of or has witnessed, an incident of sex discrimination is encouraged to report the incident or file a Report immediately in order to maximize the College's ability to obtain information and conduct an adequate, thorough, prompt, and impartial investigation into the incident. A delayed Report of alleged sex discrimination may result in the loss of relevant information, evidence, and reliable witness testimony, and may impair the College's ability to fully investigate the incident.

If an individual wishes to file a claim with the U.S. Department of Education's Office for Civil Rights, they must do so within 180 days of the incident based on the time limits for adjudication set by that agency.

VIII. AVAILABLE RESOURCES AND RECOMMENDED IMMEDIATE STEPS FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

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A. RESOURCES FOR STUDENTS, FACULTY AND STAFF

Emergency (Assault)	
Hiram College Campus Safety, Cell	330-469-4119
Hiram Village Police	9-1-1
Health (Assault)	
Hiram College Health Center (Students only, Mandated Reporters)	330-569-5418
Hillcrest Emergency Department, SANE	440-312-7890
Akron General PATH Program, SANE	330-344-1148
Mental Health/Advocacy (Assault and/or Harassment)	
Hiram College Counseling Services (Students only, Free, Confidential)	330-569-5952
Townhall II (Rape Crisis Center and Advocates)	330-678-4357
Portage County Prosecutor's Victim's Assistance	800-201-3857
Hiram College Title IX Coordinator	
Martha Schettler	330-569-6116
Hiram College Title IX Deputies	
Ed Frato-Sweeney	330-569-5239
Karen Holland	330-569-5109

B. RECOMMENDED IMMEDIATE STEPS FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

The College is acutely aware that an individual who has been subject to, or who knows of or who has witnessed a sex offense may experience physical, mental, and emotional trauma as a result of the incident. A victim of sexual violence (e.g., sexual assault, dating violence, domestic violence, stalking) is encouraged to follow these procedures immediately following the occurrence, when possible:

- Get to a safe place immediately and call someone you trust.
- **Call Asha Goodner, Director of Student Health Services at 330-569-5418.**
- If sexual contact and/or penetration occurred, do not wash, shower, bathe, use the toilet or change clothing. Preserve any evidence as would be necessary to prove the offense, or in obtaining a judicial protective order, restraining order, and/or no-contact order. Examples of such evidence include:
 - Clothing worn during the incident, including but not limited to undergarments.
 - Sheets, bedding, and condoms, if used.

- You are encouraged to call the appropriate law enforcement agency. To contact Hiram Village Police, call 911 or 330-569-3236. Hiram College Campus Safety, 330-469-4119, can assist any student with reporting a crime to the Hiram Village Police.
- Get medical attention. Campus Safety will assist you in calling Emergency Medical Services (911) if you ask them to. The College also encourages you to go, or have someone else take you, directly to a medical facility or medical provider of your choice.
- The College will assist an individual who has been subjected to, who knows of, or who has witnessed an incident of sexual misconduct, in obtaining the services of counseling professionals, if requested. The College encourages you to seek support services. For on-campus counseling services, contact Counseling Services at 330-569-5952. The College will provide you with off-campus counseling and advocacy service contacts, but the College cannot assume financial responsibility for such services.
- All members of the campus community are encouraged to seek resources and support related to sexual misconduct proceedings, including Respondents, witnesses, and bystanders.
- Make a list of witnesses with contact information.
- Retain text messages, emails, call history, and digital media posts.
- Take pictures of any injuries.

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IX. OPTIONS AND PROCEDURES FOR REPORTING SEX DISCRIMINATION

A. OPTIONS FOR REPORTING TO HIRAM UNDER THIS POLICY

Anyone can report an incident of sex discrimination to Hiram. A Report can be made by any individual who is a victim of sex discrimination or who has knowledge of sex discrimination happening to or affecting someone else. A Report may be made anonymously (see Section XI). The College strongly encourages all individuals to report incidents of potential sex discrimination even if the individual does not intend to pursue a Formal Complaint. No person should assume that an incident has already been reported by someone else or that the College already knows about a particular situation.

Hiram will investigate all Reports and may implement remedial steps as needed, but that does not mean every Report will become a Formal Complaint or that the College will pursue a formal resolution.

In order to make a Report to Hiram, a reporting individual may do one or more of the following:

1. When sexual assault occurs, report the incident as soon as possible to the Director of Student Health Services.

The director is able to assist in securing any medical attention that may be needed and, as a mandatory reporter, will notify the Village of Hiram Police Department and the Title IX Coordinator that an incident has occurred.

**Asha Goodner, Director of Student Health Services
Julia Church Health Center
330-569-5418**

2. If the victim, witness, friend, or family member is reporting an incident after normal business hours, please notify any Residential Education staff member (off-hours duty phone: 4330-569-4025) or a Campus Safety Officer (330-469-4119 or x6107 on campus). This staff member will put you in direct contact with the Director of Health Services as soon as possible.
3. Report the incident to the Title IX Coordinator via email at SchettlerMA@hiram.edu, or by calling 330-569-6116.
4. Report the incident to any Resident Assistant, faculty, or staff member.
5. The Hiram's Counseling Center and Health Center are considered "confidential resources" staff.

It is important to know that, with the exception of the "confidential resources" staff listed below, the College considers all Hiram faculty and staff to be Mandatory Reporters and they are therefore required by the College to report any knowledge they receive of possible violations of this policy to the Title IX Coordinator. Mandatory Reporters must relay all known information about any reported policy violation, including but not limited to, the names of involved individuals, the nature of the incident, and the time and location of the incident. (See Section XI for information about confidential and anonymous reporting.)

All Resident Assistants are also Mandatory Reporters and are required to report any knowledge of possible violations of the policy to the Title IX Coordinator. No other students are obligated to report knowledge they may have of sex discrimination, including student employees of Hiram who are considered students and not staff for the purposes of this policy and are not Mandatory Reporters.

Once the Title IX Coordinator learns of any incident of sexual misconduct from a Mandatory Reporter, they will initiate an investigation into the alleged incident.

After making a Report, an individual may choose to end involvement in the process, may choose to be involved or not be involved in the College's investigation and any related proceedings, or may choose to file or request a Formal Complaint.

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B. OPTIONS FOR UTILIZING CONFIDENTIAL RESOURCES

Rather than making a Report, individuals can confidentially discuss incidents of sex discrimination with one of the following College “confidential resources” staff:

- Hiram College Counseling Services: 330-569-5952
- Hiram Chaplain, Christopher McCreight: 330-569-6094

Disclosures made to these confidential resources will be held in strict confidence and will not constitute a Report to Hiram under this policy. These confidential resources may assist individuals with reporting incidents or filing reports if, and only if, they are requested to do so by the individual who has reported the sexual misconduct.

Specific and personally identifiable information given to one of these confidential resources will not be disclosed to the Title IX Coordinator without consent. However, in order to assist the College in collecting data and identifying patterns or systemic problems related to sexual violence on and off campus, the confidential resources staff will convey general information about crimes reported to them (i.e., nature, time, and location of incident) to the Title IX Coordinator. In such cases, the College will protect confidentiality and avoid disclosing personally identifiable information about individuals involved in the incident.

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C. OPTIONS FOR NOTIFYING OFF-CAMPUS LAW ENFORCEMENT AUTHORITIES

Individuals can notify off-campus law enforcement authorities about any incident of alleged sexual misconduct by dialing 911 or by calling the Hiram Village Police at 330-569-3236. Individuals can also contact other law enforcement agencies, depending on the location of the incident. Notifying off-campus law enforcement authorities will not constitute a Report to Hiram under this policy, but it may or may not result in such authorities reporting relevant information back to Hiram which the College may investigate.

Individuals can request assistance from Hiram faculty and staff in notifying appropriate law enforcement authorities, which the College will provide. Requesting such assistance from a Mandatory Reporter will constitute a Report as described above.

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D. OPTION TO NOT REPORT

Individuals who are not mandatory reporters can choose *not* to notify Hiram or any law enforcement authorities about an alleged incident of sex discrimination.

X. PROCEDURE FOR FILING A SEX DISCRIMINATION COMPLAINT

Under Title IX, Hiram College must respond promptly in a manner that is not deliberately indifferent to any incident where Hiram College has actual knowledge of sex discrimination. Hiram College will treat both the Complainant and Respondent equitably by offering supportive measures to the Complainant and by following a grievance policy before the imposition of disciplinary sanctions or other actions that are not supportive measures against the Respondent. Supportive measures are available to the Complainant regardless of whether a Formal Complaint is filed.

If an individual wishes to pursue an investigation of Title IX sex discrimination beyond simply reporting it, they may file a Formal Complaint. The filing of a Formal Complaint means that the individual is asking the College to take further steps beyond instituting supportive measures, including conducting an investigation and holding a Formal Live Hearing to resolve the alleged issue. A Formal Complaint also triggers options for informal resolution that are not available before a written complaint is filed. Any Complainant may file a Formal Complaint, and Hiram will treat it as such. Any Third-Party Reporter may request that Hiram treat their Report as a Claim, but that would not make the Third-Party Reporter into a Complainant.

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In order to meet its Title IX obligations to provide a safe and nondiscriminatory environment for the broader Hiram Community, the College may also convert any Report into a Formal Complaint if the College determines that it must take further steps to protect the Hiram Community.

To the extent possible, information reported to the Title IX Coordinator will be shared only with a limited circle of other College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the reported incident.

A. FORMAL TITLE IX COMPLAINTS

A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging sex discrimination against a Respondent. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. A form to assist in filing a Formal Complaint will be provided, if needed. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in an education program activity of Hiram College. Upon receiving a Formal Complaint, the Title IX Coordinator or their designee will do the following:

- Treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility for sexual misconduct has been made against the Respondent and by following a grievance policy before the imposition of any disciplinary sanctions that are not supportive measures. The Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process.
- Require an objective evaluation of all relevant evidence.
- Provide a reasonably prompt time frame for conclusion of the grievance process.

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- Describe the range of possible disciplinary sanctions and remedies.
- Describe the range of supportive measures available to Complainants and Respondents.
- Advise parties that a preponderance of evidence will be the evidentiary standard used.

Both the Complainant and Respondent will receive written notice of how the investigation process will unfold, and they will also receive relevant updates throughout the review process. All individuals reporting sex discrimination will be protected from retaliation. Any allegations of retaliation will be addressed by the College.

At the party's request, the college will provide interim measures to either or both the reporting and responding parties involved in an alleged incident of sexual misconduct. This may include changing academic, transportation, work, or living situation if options to do so are reasonably available (and only to the extent that the College has control over these environments). Such changes may be available regardless of whether the individual chooses to report the crime to campus safety or local law enforcement, or a Formal Complaint under this policy. Requests to change an academic, living, transportation, or work situation, or for any other protective measure, should be made to the Title IX Coordinator. In the event such a measure is implemented, the College will maintain it as confidential to the extent that maintaining confidentiality would not impair the College's ability to provide it. The Title IX Coordinator will communicate with each party throughout the investigation to ensure interim measures remain necessary and effective. Failure to comply with the terms of any interim measures or protections that have been implemented may constitute a separate violation of this policy.

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If a Complainant has obtained an order of protection, temporary restraining order or other no contact order against the Respondent from a criminal, civil, or tribal court, the Complainant should provide such information to the Title IX Coordinator. The College will take all reasonable and legal action to implement the order.

If the Title IX Coordinator determines the allegations fall within Title IX's reach, the College will initiate a formal investigation. The Title IX Coordinator, or their designee, in conjunction with a designated investigator, will work through various steps.

XI. CONFIDENTIALITY AND ANONYMOUS REPORTING

Individuals can confidentially discuss incidents of sexual misconduct with the College confidential resources staff.

Beyond that, a Reporter can make a Report disclosing their name but requesting confidentiality. An affected person who is the subject of a Third-Party Report can also request confidentiality. The College recognizes that, in some instances, an

individual who has been subjected to, or who knows of or has witnessed, an incidence of sex discrimination may request that their name not be disclosed or that no investigation or disciplinary action be pursued to address the alleged misconduct. In such instances, the Title IX Coordinator will respect the request for confidentiality; however, that request must be weighed against the College's obligation to provide a safe, non-discriminatory environment for all students, considering many factors, including:

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- The seriousness of the alleged misconduct;
- Whether there have been other reports of sexual misconduct against the Respondent known by the College;
- Whether the Respondent has allegedly threatened further misconduct or violence;
- Whether the alleged misconduct was committed by multiple perpetrators;
- Whether the alleged misconduct involved use of a weapon;
- Whether the College possesses other means to obtain relevant evidence of the alleged misconduct;
- Whether the Report reveals a pattern of misconduct at a particular location or by a particular individual or group of individuals; and
- The accused individual's right to receive information about the allegations if the information is maintained by the College as an "education record" under the Family Educational Rights and Privacy Act (FERPA), if applicable.

Commented [SMA13]: Change all misconduct to discrimination?

In all cases of alleged sex discrimination, Title IX allows Hiram to investigate and take reasonable corrective action. Further, Title IX permits Hiram to deny requests for confidentiality if the Title IX Coordinator determines, subject to the factors listed above, that the College must do so in order to meet the College's Title IX obligations to provide a safe and nondiscriminatory environment for the broader Hiram Community. These instances will be evaluated on a case-by-case basis. **Please note that the College's ability to investigate and respond fully to an incident may be limited because of requests for confidentiality or to not proceed with disciplinary action.**

Pursuant to Title IX and the Clery Act, as amended by the Violence Against Women Act, Hiram is required to provide equal access to the Complainant and Respondent to any information related to allegations of sexual assault, dating violence, domestic violence or stalking that will be used during formal or informal disciplinary meetings or hearings.

In an instance where Hiram determines it must deny a request for confidentiality, the Title IX Coordinator will inform the requesting individual prior to making the disclosure to anyone beyond necessary school officials. Any such disclosure will be limited to only individuals with a need to know such information. Consistent with FERPA's prohibition on re-disclosure of confidential information, any recipient is prohibited from using or disclosing other people's confidential

information, learned as a result of participation in any investigation or proceeding under this policy, outside of such forums without express consent or for any improper purpose. In all instances, members of the Hiram Community should understand that Title IX prohibits retaliation against anyone reporting a potential Title IX incident, and that College officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

XII. INVESTIGATION AND RESOLUTION PROCESS

This section describes Hiram's investigation and resolution processes. There is to be a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process. The burden of gathering evidence and burden of proof remains on the College, not on the parties. The College will not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag orders").

A. INVESTIGATION

The Complainant and Respondent will receive written notice that an investigation has been initiated. The notice of investigation will include the name of the investigator, a list of participants (Complainant, Respondent, potential witnesses), a summary of the alleged conduct, and examples of potential policy violations.

The written notice will include the following statements:

- All parties may have an advisor of their choice, which may or may not be an attorney.
- All Respondents are presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process.
- All parties are prohibited from knowingly making false statements or knowingly submitting false information during a grievance process.

The Investigator shall conduct an objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a Complainant, Respondent, or witness. The potential or initial charges may be amended as the investigative process unfolds and more information becomes available. If additional allegations are added, all parties must be notified. Investigators used by the College must have specific training in regard to investigations.

- The Investigator will be impartial and free of any demonstrable conflict of interest.
- The Investigator will interview the Complainant and the Respondent to understand the details of the reported incident. Questioning about the Complainant's sexual history with anyone other than the alleged perpetrator will not be permitted. Further, the College recognizes that the mere fact of a current or previous consensual dating or sexual relationship does not itself imply consent or preclude a finding of sexual misconduct.

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- The Investigator, at his/her discretion, will initiate other fact finding and/or discussions with individuals who may have information relevant to the determination.
- The Investigator will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate.
- The Complainant and Respondent will have an equal opportunity to be heard; submit information and evidence; and identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have informed evidence obtained as part of the investigation that is directly related to the allegations relevant to the incident and cannot be participating solely to speak about an individual's character. All parties will have the opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint.
- Both Complainants and Respondents may utilize Advisors and Supporters throughout the investigation process, including to accompany them to any hearing, conference, or related disciplinary proceeding.
- The Complainant and Respondent will receive written notice in advance of all interviews, meetings, or hearings regarding the investigation. The Complainant and Respondent will also receive all evidence directly related to the investigation and will be given at least 10 days to respond to it before the investigator finalizes their report.

Note: A person's medical and counseling records are confidential documents that a Complainant or Respondent will not be required to disclose to investigators. However, if a party chooses to provide medical and counseling records as part of the investigation, the records will be shared with the other party.

The Investigator and the Deputy Title IX Coordinator have the discretion to consolidate multiple reports against a Respondent into one investigation and report if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident(s).

B. INFORMAL RESOLUTION CONFERENCE

The College may facilitate the use of informal means of resolution, such as mediation, in lieu of the formal investigation and determination procedure, when a Formal Complaint is filed. However, the following standards apply to any information resolution method that is utilized:

- Informal means may only be used with both parties' voluntary, informed, written consent to participate after receiving a full disclosure of the allegations and their options for formal resolution, and with the involvement of the Title IX Coordinator. No party will be made to waive use of the formal investigation and hearing process.

- The Complainant will not be required to work out the problem directly with the Respondent.
- Either party may terminate any such informal means at any time and continue with the formal resolution process.
- With the agreement of the parties involved and the College, a complaint may be informally resolved at any stage of these procedures.

Commented [SMA15]: I think the option to informal resolution ends after the live hearing has commenced.

If informal resolution is reached, it will be documented in writing and signed by both parties. An informal resolution cannot be appealed.

The informal resolution process may not be used in situations involving allegations that an employee sexually harassed a student.

Commented [SMA16]: Is this too narrowly defined?

C. THE TITLE IX COORDINATOR SHALL HAVE DISCRETION TO RESOLVE OR DISMISS A FORMAL COMPLAINT *WITHOUT* A FORMAL LIVE HEARING IN THE FOLLOWING CIRCUMSTANCES:

1. If Hiram lacks jurisdiction;
2. if the allegations could not constitute a policy violation under any alleged circumstances;
3. if the Formal Complaint was requested by a Third-Party Reporter who reported witnessing sexual misconduct happening to or affecting someone else, the Title IX Coordinator shall have discretion to resolve the Formal Complaint to account for the alleged victim's wishes (e.g., if they do not wish to pursue the Formal Complaint as a first-party Complainant);
4. if the Complainant and Respondent both consent to an alternative resolution, with such consent obtained independently from each person by the Title IX Coordinator to avoid a risk of coercion;
5. for matters that do not involve Hiram employees (faculty, staff member or contract services employee), if either Complainant or Respondent, or both, are not Hiram students, or cease to be Hiram students prior to final resolution of the Formal Complaint (i.e., student withdrawal), the Title IX Coordinator shall have discretion to resolve the Formal Complaint.

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In the above circumstances, the Title IX Coordinator shall have authority to impose interim and remedial measures and take other measures consistent with the Hiram College Student Handbook. For employee matters, the Director of Human Resources or the Vice President of Academic Affairs/Dean of the Faculty shall have authority to take action consistent with the Hiram College Employee Handbook.

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D. TIMEFRAME

The College will seek to complete the investigation within sixty (60) calendar days from the notice of investigation. This time frame may be extended for good cause with written notice to the parties of the delay, citing the reason for the delay. Good cause may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Formal complaints will be dismissed during the investigative process if either of the following statements are true:

- The investigation determines the allegations, even if true, do not constitute sex discrimination.
- The allegations did not occur in Hiram College's education program or activity, otherwise as part of the College's "operations," or the Complainant was not physically in the United States when the incident occurred.

E. WITHDRAWAL OF COMPLAINT

Formal complaints may be dismissed if:

1. The Complainant files a request in writing to the Title IX Coordinator to withdraw the Formal Complaint;
2. The Respondent is no longer enrolled or employed by Hiram College; or
3. Specific circumstances prevent the Investigator from gathering sufficient evidence to reach a determination.

F. INITIAL INVESTIGATIVE REPORT

At the conclusion of the investigation, the Investigator will prepare a preliminary written investigation report. This report will summarize the relevant information gathered, synthesize the areas of agreement and disagreement between the parties, and describe any supporting information or accounts such as police reports or witness statements. In preparing the report, the Investigator will review all facts gathered to determine whether the information is relevant given the allegation.

Hiram College will provide to each party and each party's advisor, a hard or electronic copy of all evidence and a copy of the preliminary report. Parties will have ten (10) days to submit a written response which the Investigator will consider prior to completion of the investigative report.

The final report will be shared with a Sexual Misconduct Hearing Board (Hearing Board). Sexual Misconduct Hearing Boards consist of three members, chosen from trained faculty and staff. The Hearing Board will review all of the materials presented in the Investigator's final report.

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G. LIVE HEARING

All formal investigations under Title IX will include a live hearing before a Hearing Board. The Hearing Board may not include the Title IX Coordinator, nor the Investigating Officer. For cases in which the Respondent is a student, the Director of Residential & Citizenship Education shall be the presiding member of the Hearing Board; for cases in which the Respondent is an employee, the Director of Human Resources shall be the presiding member.

1. Participation in Hearing

Participants in the hearing (including parties, witnesses, and the decision-maker), may appear in-person or virtually. If either party requests, the College will configure the hearing so the parties may be in separate rooms, but able to see and hear each other via videoconference technology.

2. Verbatim Record

The College shall arrange for a verbatim recording to be made of the hearing. Said recording may be in the form of a stenographic record, an audio recording, or an audio/video recording.

3. Representation

If a party participating in a live hearing does not have an advisor, the College will provide one to the party for the hearing. The College will bear the cost of the advisor. The advisor may be an attorney, but is not required to be.

4. Standard of Review and Presumption of Non-Responsibility

Hearings shall be conducted using a preponderance of the evidence standard and shall presume the Respondent is not responsible unless the preponderance of evidence demonstrates otherwise.

5. Cross-Examination and Relevancy

Each party's representative shall be permitted to cross-examine the other party and all witnesses via direct, oral cross-examination. Cross-examination shall be limited to relevant questioning. If the Presiding Member disallows a question as irrelevant, the Presiding Member will explain why the disallowed question was not relevant. No questions or evidence will be permitted regarding the Complainant's sexual history unless such questions/evidence are offered to prove someone other than the Respondent committed the alleged act, or to prove consent. If an individual does not testify but previously made statements regarding the issues at hand, the Hearing Board will not rely on the previous statements to determine responsibility and will draw no inferences about responsibility based on the individual's failure to testify.

H. DETERMINATION OF RESPONSIBILITY

The Hearing Board will make a determination, by a preponderance of the evidence, whether there is sufficient information to support a finding of responsibility. The preponderance of the evidence is the standard whereby the relevant and admissible information is found to support, more likely than not, the allegations. When using the preponderance standard, the *nature* of the evidence (e.g., whether it is convincing and seemingly true or accurate) matters more than the *amount* of evidence. This determination must be in writing and include the following:

- Identification of the allegations potentially constituting sex discrimination;
- Description of all procedural steps taken;
- Findings of fact supporting the determination;
- A statement of, and rationale for, determination of responsibility;
- Disciplinary sanctions imposed on Respondent (if any); and
- Remedies offered to the Complainant (if any).

This written determination will be provided to all parties simultaneously along with information regarding how to appeal the Hearing Board's determination.

If the Hearing Board determines, by a preponderance of evidence, that there is insufficient information to find the Respondent responsible for violating this policy, the case will be dismissed.

If the Hearing Board determines, by a preponderance of evidence, that there is sufficient information to find the Respondent responsible for violating this policy, the Board will determine appropriate sanctions for the Respondent.

When a Respondent is found responsible, remedies will be provided to the Complainant. These remedies will be designed to maintain the Complainant's equal access to the College's programs. Remedies may include, but are not limited to, the following:

- Change Complainant's class/classes
- Provide Academic Support
- Retake a class without penalty
- Change Complainant's dorm
- Provide counseling
- Issue a "No Contact" order to Respondent
- Require training for the Respondent or the broader student or staff population

I. DISCIPLINARY SANCTIONS

In determining the appropriate sanctions, the Board will:

- Consider a disciplinary sanction(s) designed to eliminate the prohibited conduct, prevent its recurrence, and remedy its effects while supporting the College's educational mission and Title IX obligations.
- Impose any disciplinary sanction deemed appropriate after a consideration of all of the relevant information.
 - Disciplinary sanctions vary from a verbal or written warning up to termination of employment or expulsion from the College.

The Hearing Board will impose a disciplinary sanction based upon the consideration of the following factors: (1) the Respondent's prior conduct history (2) the type of sanctions imposed in similar incidents; (3) the nature and violence of the conduct at hand; (4) the impact of the conduct on the Complainant; (5) the impact of the conduct on the community, its members, or its property; (6) the extent to which the respondent has accepted responsibility for his/her actions; (7) the perceived likelihood of the Respondent to engage in similar conduct in the future; (8) the need to deter similar conduct by others; and (9) any other mitigating or aggravating circumstances, including the College's values.

The imposition of disciplinary sanctions will typically take effect immediately but may be stayed at the discretion of the Director of Residential and Citizenship Education or the Director of Human Resources in consultation with the Title IX Coordinator. A Respondent who separates from the College under any circumstance after a determination of responsibility under this policy is not eligible for re-admittance or re-employment until he/she has successfully completed the terms of any sanctions imposed.

J. APPEALS

There are three conditions under which parties may appeal findings/sanctions imposed:

1. To present substantive new information or evidence likely to affect the outcome of the hearing which was not presented at the time of the original hearing.
2. To provide substantive evidence that shows there was a failure to follow published procedures likely to have affected the outcome of the hearing.
3. If the Title IX Coordinator, investigator(s), or decision-maker had a conflict of interest or bias against any party.

Each party will have one opportunity to appeal.

Appeals must be submitted:

- a. In writing by the party making the appeal.
- b. In a way that clearly specifies the grounds for the appeal (see 1, 2 and 3 above).
- c. Within ten (10) business days of written receipt of the decision

- of the hearing.
- d. To the Title IX Coordinator who will convey the appeal to the appropriate appellate review official (the Senior Vice-President and Dean of Students or her designee, or the Vice President of Business and Finance).

XIII. IMPORTANT DEFINITIONS

Actual Knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only College official with actual knowledge is the Respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient.

Advisor refers to an attorney or a non-attorney advisor who can provide assistance to the Complainant or Respondent at any stage of the process covered by this policy. The College will provide a list of faculty and staff who have received training to serve as Advisors.

Clery Act: Refers to the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. Section 1092(f); 34 C.F.R., Part 668.46. It requires colleges and universities, both public and private, participating in federal student aid programs to disclose campus safety information, and imposes certain basic requirements for handling incidents of sexual violence and emergency situations.

Consent is the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter. To meet the standard of consent in the policy, each participant is expected to give and obtain consent for each separate sexual activity. Hence, even within a single encounter, consent for one form of sexual activity does not mean consent for other forms of sexual activity. This also means that past consent does not imply present or future consent.

Under this definition:

- An individual who is asleep; mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason; or who is under duress, threat, coercion, or force is not able to consent.
- One is not able to infer consent under circumstances in which consent is not clear, including but not limited to the absence of a verbal "no" or "stop." Silence cannot be assumed to indicate consent. While consent can be given by words or actions, non-verbal consent is more ambiguous than explicitly stating one's wants and limitations. Since non-verbal communication can lead to misunderstandings, students should not rely on that form of communication as a signal of consent. According to this policy, a person

who does not physically resist or verbally refuse sexual activity is not giving consent to that activity. If there is confusion during the act, all parties should stop and clarify.

- A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive. A verbal “yes” constitutes consent only when it is voluntarily and knowingly given by an individual who has the capacity to give consent.
- The existence of a prior or current relationship or sexual activity does not guarantee consent. Even in the context of a relationship, there must be clear communication from both parties that indicates a willingness to engage in sexual activity each time.
- Consent can be granted or withdrawn at any time. Any party may withdraw consent prior to the completion of the act. Withdrawal of consent should be outwardly demonstrated by words or actions. Once consent is withdrawn, sexual activity must cease.

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

Education Program or Activity includes locations, events or circumstances over which the College exercised substantial control over both the Respondent and the context in which the sex discrimination occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the institution.

FERPA stands for the Family Educational Rights and Privacy Act of 1974 which is a federal law that governs the access to educational information and records by public entities such as potential employers, publicly funded educational institutions, and foreign governments.

Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging sex discrimination against a respondent and requesting that the recipient investigate the allegation of sex discrimination. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the College. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator. As used in this paragraph,

the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

Incapacitation: Means the lack of the ability to make rational, reasonable judgments as a result of alcohol consumption, other drug use, sleep, the taking of any so-called “date-rape” drug, unconsciousness, or blackout. An individual unable to make informed judgments is physically helpless. An incapacitated person cannot make rational, reasonable decisions because that person lacks the ability to fully understand the who, what, where, or how of their sexual interaction. Incapacitation is a state beyond drunkenness or intoxication, in which alcohol, drugs, or other factors render one unable to make fully informed judgments or have an awareness of consequences. Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known of the other individual’s incapacitated state. While incapacitation may be caused by drugs or alcohol, it also includes the state of being asleep, during which time a person is unable to provide affirmative consent.

Informal Resolution Conference: Is intended to allow the Claimant and the Respondent to provide information about the alleged incident(s) of harassment or non-violent sexual misconduct, and to reach a mutually agreeable resolution. This process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the parties.

Investigator: Refers to an official(s) designated by the Title IX Coordinator to conduct an investigation of alleged Sexual Misconduct, and who acts as a witness in the event of a Formal Hearing. The Investigator will be a trained individual who objectively collects and examines the facts and circumstances of potential violations of this policy and documents them for review. The Investigator will be neutral, free from conflicts of interest or bias for or against Complainants or Respondents.

Mandatory Reporter refers to an individual who is obligated to report any knowledge they may have of Sexual Misconduct. Hiram College defines all faculty and staff as Mandatory Reports except certain “confidential resources” staff. The only students who are designated as Mandatory Reporters are Resident Assistants.

Non-Consensual Sexual Penetration: “Sexual penetration” is defined as sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of any other person’s body. Such contact is deemed non-consensual if done without the other person’s affirmative consent.

Preponderance of Evidence: Refers to the standard by which it is determined at a hearing whether or not a violation of this policy has occurred and means that an act of sexual misconduct is “more likely than not” to have occurred.

Report: Refers to any communication that puts a Hiram Mandatory Reporter on notice of an allegation that sexual misconduct occurred or may have occurred. Hiram will investigate all Reports it receives of sexual misconduct. After making a Report, an individual may choose to end their involvement in the process, may choose to be involved or not be involved in the College's investigation and related proceedings, or may choose to file a Formal Complaint and pursue Formal Resolution or an Informal Resolution Conference. The College strongly encourages all individuals to report incidents of sexual misconduct even if the individual does not intend to pursue a Formal Complaint.

Reporter: Refers to an individual who notifies a Hiram Mandatory Reporter of an alleged violation of Sexual Misconduct policy. A Reporter can be any individual who reports to Hiram that they are a victim or survivor of sexual misconduct; that they have knowledge of sexual misconduct happening to or affecting someone else.

Respondent refers to an individual who has been reported to be the perpetrator of alleged conduct that could constitute sexual harassment.

Sexual Assault is an offense that meets the definition of rape, fondling, incest or statutory rape. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

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

Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

Sexual Misconduct Hearing Board is convened by the Title IX Coordinator. Sexual Misconduct Hearing Boards consist of three members, two chosen from trained faculty and staff, and with either the Director of Residential & Citizenship Education or the Director of Human Resources presiding. The Board reviews all of the materials presented in the final investigative report and hears live testimony from the parties and witnesses.

Sexual Exploitation: Occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or the benefit of anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to:

- Non-consensual video or audio-taping of sexual activity or other private activity, even if that activity occurs in a public or semi-public place;

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- Non-consensual dissemination of video, photographs, or audio of sexual activity or other private activity, including dissemination by a third party or a person not involved in the original conduct;
- Exceeding the boundaries of consent (such as, permitting others to hide in a closet and observe consensual sexual activity, videotaping of a person using a bathroom or engaging in other private activities);
- Engaging in voyeurism, exposing one's breasts, buttocks, or genitals in a non-consensual circumstance or inducing another to expose their breasts, buttocks, or genitals without affirmative consent;
- Prostituting another person;
- Engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease or infection (STD or STI,) and without informing the other person of such disease or infection; and
- Sexually-based stalking and/or bullying.

Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

- a) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct **quid pro quo**;
- b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity;
- c) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or
- d) "Stalking" as defined in 34 U.S.C. 12291(a)(30).

Sexual Misconduct Is a broad term that encompasses sexually-motivated misconduct as described in this policy, including conduct of an unwelcome and/or criminal nature, whether such conduct occurs between strangers, acquaintances, or intimate partners. For the purposes of this policy, the following terms are collectively referred to as "Sexual Misconduct" and as defined within: Dating Violence, Domestic Violence, Nonconsensual Sexual Contact, Nonconsensual Sexual Penetration, Sexual Assault, Sexual Exploitation, Sexual Harassment, Sexual Violence, and Stalking.

Sexual Violence: Consists of physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including, but not limited to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or any conduct that would cause a reasonable person to suffer substantial emotional distress. This includes stalking that occurs online or through messaging platforms,

commonly known as cyberstalking when it occurs in an education program or education activity.

Types of stalking could include, but are not limited to:

- Following the targeted person;
- Approaching or confronting that person in a public place or on private property;
- Persistent and unwelcome attempts to contact the person by phone, electronic communication (including via the internet and cellphones), or regular mail, either anonymously or non-anonymously;
- Vandalizing the person's property or leaving unwanted items for the person;
- Persistently appearing at the person's classroom, residence, or workplace without that person's permission or other lawful purpose;
- Cyber-stalking, in which a person follows, observes, monitors, or surveils another person through the use of electronic media such as the Internet, digital media networks, blogs, cell phones, texts or other similar devices; and
- Using visual or audio recording devices or hidden or remote cameras used without the subject's consent.

Supportive Measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual misconduct. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The recipient must maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.