

The Master's University and Seminary Sexual Misconduct Policy (Title IX)

The Master's University and Seminary ("TMUS") does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations. TMUS operates in compliance with all applicable federal and state anti-discrimination laws in conducting its programs and activities and is committed to providing a learning and living environment that promotes student safety, transparency, personal integrity, civility, and mutual respect.

As a Christian institution, TMUS has applied for and received approval of the regulatory exemption available under Title IX, 34 C.F.R. Section 106.12. The statutory exemption is self-executing as set forth in 20 U.S.C. Section 1681(a) (3). TMUS is also exempt from the non-discrimination restrictions in California Education Code Section 66270 (the "Act"), in accordance with Section 66271 of the Act. In essence, these laws provide that an educational institution controlled by a religious organization within the meaning of Title IX and the Act is exempt from the application of such laws to the extent they are not consistent with the institution's religious tenets.

The categories of activities from which TMUS is exempt include the following:

- Policies regarding student recruitment and admissions prohibitions on the basis of sex
- Policies regarding rules of behavior, sanctions, or other treatment
- Policies regarding limitation of rights, privileges, advantages, or opportunities
- Policies regarding all shared private spaces (i.e. residence halls, restrooms, locker rooms)
- Policies regarding athletics
- Policies regarding employment, including pre-employment inquiries, recruitment, and discrimination in employment for pregnancy leave, childbirth, termination of pregnancy, sexual orientation, and gender identity
- Policies regarding pregnancy and marital status

In addition to the foregoing items, as a non-profit religious organization, TMUS is exempt from anti-discrimination laws in making hiring or employment decisions. TMUS is permitted to make employment decisions based on an employee's conduct or religious beliefs and whether such conduct or belief aligns with TMUS's religious tenets.

REGULATORY INFORMATION

Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in programs and activities of TMUS in the United States. "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Title IX includes its implementing regulation at 34 C.F.R. Part 106, as the

same may be amended from time-to-time. Title IX is enforced by the Office for Civil Rights.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092(f)) (“Clery Act”), which requires colleges and universities across the United States to disclose information about crime on and around their campuses. The Clery Act is tied to an institution's participation in federal student financial aid programs and it applies to most institutions of higher education both public and private. The Clery Act is enforced by the United States Department of Education.

The Violence Against Women Reauthorization Act of 2013 as “VAWA” (34 U.S.C. 12291 *et seq*), which amended the Clery Act to require institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports.

California Education Code § 66262 and § 66281, along with Senate Bill 493 condition state funding on adoption of student safety policies regarding sexual harassment, sexual violence, sexual battery, and sexual exploitation. Applicable codes include “affirmative consent” and “preponderance of evidence” standards; victim-centered student policies and protocols; sexual assault response protocols; complainant and witness amnesty provisions; trauma informed training program for involved officials; procedures for confidential reporting; prevention and outreach programming for incoming students.

Any person who experiences or becomes aware of an incident involving Sexual Misconduct, including but not limited to Sexual Assault, Dating Violence, Domestic Violence, or Stalking should report the incident to TMUS to any individual listed below. Reports can be made by telephone, email, or in person. Anonymous reports of Sexual Misconduct should include as much detailed information as possible to allow TMUS to investigate the report and respond appropriately.

Kimberly Wilson, Title IX Coordinator
Address: 21726 Placerita Canyon Rd., Santa Clarita, CA 91321
South, Vider Hall
Phone: (661) 362-2844 | Email: TitleIXCoordinator@masters.edu

Ben Trowbridge, Director of Staff & Student Services
Address: 13248 Roscoe Blvd., Sun Valley, CA 91352
Phone: (818) 909-5629 | Email: btrowbridge@tms.edu

Ben Herb, Dean of Men
Address: 21726 Placerita Canyon Rd., Santa Clarita, CA 91321
King Hall
Phone: (661) 362-2243 | Email: bherb@masters.edu

Brianna Harris, Dean of Women

Address: 21726 Placerita Canyon Rd., Santa Clarita, CA 91321
King Hall
Phone: (661) 362-2247 | Email: bharris@masters.edu

Campus Safety
21726 Placerita Canyon Rd., Santa Clarita, CA 91321
North Campus, Campus Safety Office
Main Campus, Guard Shack
Phone: (661) 362-2500 | Email: kfillmore@masters.edu

Jim Rickard, Athletic Director
Address: 21726 Placerita Canyon Rd., Santa Clarita, CA 91321
Bross Gym
Phone: (661) 362-2781 | Email: jrickard@masters.edu

Office for Civil Rights
U.S. Department of Education
50 United Nations Plaza, San Francisco, CA 94102
Phone: (415) 486-5555 | Email: ocr.sanfrancisco@ed.gov

Some types of Sexual Misconduct, including Sexual Assault, Dating Violence, Domestic Violence or Stalking prohibited by this Policy are crimes. Individuals who believe they may have been the victim of a crime are encouraged to contact Campus Safety by calling (661) 362-2500 and/or by contacting local law enforcement. Student Life or Campus Safety personnel are available to assist in notifying law enforcement authorities.

The decision to file a police report and/or to pursue civil action against the Respondent is ultimately up to the Complainant. Individuals may file a criminal complaint and a report of Sexual Misconduct to the University simultaneously. The Title IX Coordinator will proceed with an investigation and complaint resolution as defined in this policy regardless of the Complainant's decision to file a criminal complaint.

Individuals who would like to report Sexual Misconduct that involves crimes, including but not limited to Sexual assault, Dating Violence, Domestic Violence or Stalking, to law enforcement should contact the following:

- 911 (for emergencies)
- Los Angeles County Sheriff's Department
26201 Golden Valley Road
Santa Clarita, CA 91350
Phone: (661) 260-4000

Title IX Complaints may also be filed:

Office for Civil Rights
U.S. Department of Education
50 United Nations Plaza, San Francisco, CA 94102
Phone: (415) 486-5555 | Email: ocr.sanfrancisco@ed.gov

EMPLOYEE DUTY TO REPORT

TMUS provides training and requires all nonconfidential responsible employees have a duty to report, when they are made aware of any alleged incidents of sexual harassment or conduct prohibited by Title IX. Nonconfidential responsible employees includes Resident Directors, Resident Assistants, Coaches, Campus Safety, Health Center, and Human Resources employees. Though encouraged to report, faculty and other staff employees are not obligated to report sexual misconduct because they lack power to take action or provide support.

CSA REPORTS (CLERY ACT)

In accordance with the Clery Act, certain campus officials deemed Campus Security Authorities (CSAs), have a separate duty to report certain crimes that occur on campus and on public property surrounding the campus (*without personally identifying information*) to the Director of Campus Safety.

TRAINING OF TITLE IX OFFICIALS

Title IX Coordinator(s), investigators and decision-makers (and any person who facilitates an informal resolution process) must receive training on a number of topics, including not only policies and procedures, but also how to serve impartially.

GENERAL RESPONSE TO SEXUAL HARASSMENT

Once TMUS has actual knowledge of sexual harassment in an education program or activity against a person in the United States, a response must promptly be made in a manner that is not deliberately indifferent.

The Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

RETALIATION

TMUS expressly prohibits retaliation by any person, including TMUS officials, against any person exercising rights under Title IX, and complaints for retaliation may be filed at any time to the Title IX Coordinator.

No person may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participate or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation as prohibited under this section.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding also does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

REQUESTS FOR CONFIDENTIALITY

If a complainant requests confidentiality, which could preclude a meaningful investigation or potential discipline of the potential respondent, or that no investigation or disciplinary action be pursued to address alleged sexual harassment, TMUS shall generally grant the request, but shall consider its responsibility to provide a safe and nondiscriminatory environment for all students, including for the complainant. In determining whether to disclose a complainant's identity or proceed to an investigation over the objection of the complainant, the institution may consider whether any of the following apply:

1. There are multiple or prior reports of sexual misconduct against the respondent.
2. The respondent reportedly used a weapon, physical restraints, or engaged in battery.
3. The respondent is a faculty or staff member with oversight of students.
4. There is a power imbalance between the complainant and respondent.
5. The complainant believes that the complainant will be less safe if the complainant's name is disclosed or an investigation is conducted.
6. The institution is able to conduct a thorough investigation and obtain relevant evidence in the absence of the complainant's cooperation.

If TMUS determines that it can honor the student's request for confidentiality, reasonable steps will be taken to respond to the complaint, consistent with the request, to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the complainant. These steps may include:

- increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred;
- providing additional training and education materials for students and employees; or

- conducting climate surveys regarding sexual violence.

TMUS shall also take immediate steps to provide for the safety of the complainant while keeping the complainant's identity confidential as appropriate. These steps may include changing living arrangements or course schedules, assignments, or tests. The complainant shall be notified that the steps TMUS will take to respond to the complaint will be limited by the request for confidentiality.

If TMUS determines that it must disclose the complainant's identity to the respondent or proceed with an investigation, it shall inform the complainant prior to making this disclosure or initiating the investigation. TMUS shall also take immediate steps to provide for the safety of the complainant where appropriate. In the event the complainant requests that TMUS inform the respondent that the student asked TMUS not to investigate or seek discipline, TMUS shall honor this request.

LIMITED AMNESTY

In accordance with CA ED. Code 67386, providing that an individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of TMUS's student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

GRIEVANCE PROCEDURES FOR COMPLAINTS OF SEX DISCRIMINATION

TMUS has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Complaints:

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that TMUS investigate and make a determination about alleged discrimination under Title IX:

- A "complainant," which includes:
 - a student or employee of TMUS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of TMUS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in TMUS's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or

- TMUS's Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee TMUS; or
- Any person other than a student or employee who was participating or attempting to participate in TMUS's education program or activity at the time of the alleged sex discrimination.

TMUS may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Title IX Grievance Procedures:

TMUS will treat complainants and respondents equitably.

TMUS requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

TMUS presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Once TMUS has actual knowledge of sex discrimination, a response must promptly be made in a manner that is not deliberately indifferent. TMUS is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

The Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. TMUS has established the following timeframes for the major stages of the grievance procedures:

The Title IX Coordinator shall provide written notice of the formal complaint to the Respondent. Once the Title IX Coordinator receives a formal complaint, sufficient information just be

gathered to determine the category of complaint and determine whether the complaint shall be dismissed or investigated. Final decision shall be made within 10 days of receipt of the complaint and written notice of decision provided to both complainant and respondent.

When investigating a formal complaint, and throughout the grievance process, TMUS must ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on TMUS and not on the parties. Both Complainant and Respondent shall have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. TMUS shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

TMUS shall provide both parties an equal 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, including the evidence upon which TMUS does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The Investigator shall promptly interview and gather and inspect all evidence in a prompt and timely manner considering the scope of the complaint. Prior to completion of the investigative report, TMUS shall send to each party the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

At the conclusion of the investigation and the 10-day review period, the Title IX Coordinator shall review all written responses provided and create a final investigative report that fairly summarizes relevant evidence. The final determination report shall be sent to each party simultaneously within 10 days along with procedures for an appeal. The determination regarding responsibility becomes final either on the date that TMUS provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. The Title IX Coordinator is responsible for effective implementation of any remedies.

Either party may appeal a determination regarding responsibility, and a dismissal of a formal complaint or any allegations, on the following bases:

1. Procedural irregularity that affected the outcome of the matter,
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter, and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Upon receipt of a timely appeal, TMUS shall:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties,
- Ensure that the decision-maker for the appeal is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator,
- Ensure that the decision-maker for the appeal comply with the same standards of impartiality (i.e., without prejudgment of the facts, and without bias or conflicts of interest for or against either party),
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome,
- Issue a written decision describing the result of the appeal and the rationale for the result,
- Provide the written decision simultaneously to both parties.

The Title IX Coordinator may approve temporary delays or extensions throughout the process for good cause. Good cause may include considerations such as concurrent criminal investigation, absence of a party or a witness, the need for language assistance, or accommodation for disabilities). Notice of the delay, both the length and reason for the action, will be communication, in writing, to the complainant and respondent simultaneously.

TMUS will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

TMUS will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by TMUS to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless TMUS obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone

other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Notice of Allegations:

Upon initiation of TMUS's Title IX grievance procedures, TMUS will notify the parties of the following:

- TMUS's Title IX grievance procedures and any informal resolution process;⁸
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, TMUS decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, TMUS will notify the parties of the additional allegations.

Dismissal of a Complaint:

TMUS may dismiss a complaint of sex discrimination if:

- TMUS is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in TMUS's education program or activity and is not employed by TMUS;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and TMUS determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- TMUS determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, TMUS will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, TMUS will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then TMUS will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

TMUS will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs

after the respondent has been notified of the allegations, then TMUS will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, TMUS will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, TMUS will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within TMUS's education program or activity.

Investigation:

TMUS will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on TMUS—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The Title IX Coordinator will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The Title IX Investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The Title IX Coordinator will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- The Coordinator will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence;
- The Coordinator will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The Coordinator will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Questioning the Parties and Witnesses:

TMUS will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. Four factors will be used when assessing witness credibility; demeanor, consistency, chronology, and past history and motivations. Such analysis shall be included in the investigative report.

Determination Whether Sex Discrimination Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, TMUS will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 - Coordinate the provision and implementation of remedies to a complainant and other people TMUS identifies as having had equal access to TMUS's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within TMUS's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions

- against a respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Informal Resolution:

In lieu of resolving a complaint through TMUS's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. TMUS does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or when such a process would conflict with Federal, State, or local law.

Supportive Measures:

Supportive measures are 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 TMUS's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or TMUS's educational environment, or deter sexual harassment.

TMUS will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to TMUS's education program or activity or provide support during TMUS's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules,
- Campus escort services (as available)
- Mutual restrictions on contact between the parties
- Changes in work or housing locations (as available)
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Other similar measures

TMUS will maintain confidentiality related to the supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of TMUS to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Disciplinary Sanctions and Remedies:

Sanctions may be imposed, singly or in combination, upon a respondent only after a finding of responsibility. Factors considered in sanctioning are further defined in the Student/Employee

handbook. Following a determination that sex-based discrimination occurred, TMUS may impose disciplinary sanctions, which may include:

- Reprimand
- Fines
- Work details
- Required counseling
- Probation
- Suspension
- Expulsion from the residence halls or from the institution
- Withholding diploma
- Revocation of degree
- Transcript notation
- Other actions

Range of Employee Disciplinary Measures

- Suspension, termination, or other disciplinary action as appropriate.
- Removal from the premises or withdrawal of consent to enter or be present on the premises pending the outcome of an investigation and thereafter, if required.
- Notification of security and law enforcement agencies of any threats and violent acts, and initiation of criminal arrests and prosecutions.
- Reassignment/relocation of personnel or job duties, if required.
- Termination of any business relationship.
- Any other action TMUS deems to be necessary or required under the circumstances.

Appropriate remedies will be designed to restore or preserve equal access to TMUS's education programs or activities, and may be individualized as determined by the Title IX Coordinator.

EMERGENCY REMOVAL

Nothing in this policy precludes TMUS from removing a respondent from TMUS's program or activity on an emergency basis, provided that TMUS undertakes an individualized safety and risk analysis, determine that an immediate threat to the physical health or safety to any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. TMUS will maintain confidentiality related to emergency removals, provided said confidentiality does not impair TMUS's ability to implement the emergency removals. Unless other exigent circumstances exist, once a decision is made on emergency removal, an appropriate safe exit plan will be developed in consultation with the Director of Campus Safety, Deans and/or the Director of Human Resources, as applicable.

Nothing in this policy precludes Human Resources from placing a non-student employee respondent on administrative leave during the pendency of a grievance process.

GRIEVANCE PROCEDURES FOR COMPLAINTS OF SEX-BASED HARASSMENT

TMUS has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator. These grievance procedures address complaints of sex-based harassment that involve a student party.

Complaints:

The following people have a right to make a complaint of sex-based harassment, requesting that TMUS investigate and make a determination about alleged sex-based harassment under Title IX:

- A “complainant,” which includes:
 - a student or employee of TMUS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of TMUS who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in TMUS’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- TMUS’s Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

TMUS may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Title IX Grievance Procedures:

TMUS will treat complainants and respondents equitably.

TMUS requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

TMUS presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Once TMUS has actual knowledge of sexual harassment, a response must promptly be made in a manner that is not deliberately indifferent. TMUS is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

The Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. TMUS has established the following timeframes for the major stages of the grievance procedures:

The Title IX Coordinator shall provide written notice of the formal complaint to the Respondent. Once the Title IX Coordinator receives a formal complaint, sufficient information just be gathered to determine the category of complaint and determine whether the complaint shall be dismissed or investigated. Final decision shall be made within 10 days of receipt of the complaint and written notice of decision provided to both complainant and respondent.

When investigating a formal complaint, and throughout the grievance process, TMUS must ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on TMUS and not on the parties. Both Complainant and Respondent shall have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. TMUS shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

TMUS shall provide both parties an equal 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, including the evidence upon which TMUS does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The Investigator shall promptly interview and gather and inspect all evidence in a prompt and timely manner considering the scope of the complaint. Prior to completion of the investigative report, TMUS shall send to each party the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

At the conclusion of the investigation and the 10-day review period, the Title IX Coordinator shall review all written responses provided and create a final investigative report that fairly summarizes relevant evidence. The final determination report shall be sent to each party simultaneously within 10 days along with procedures for an appeal. The determination regarding responsibility becomes final either on the date that TMUS provides the parties with

the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. The Title IX Coordinator is responsible for effective implementation of any remedies.

Either party may appeal a determination regarding responsibility, and a dismissal of a formal complaint or any allegations, on the following bases:

1. Procedural irregularity that affected the outcome of the matter,
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter, and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Upon receipt of a timely appeal, TMUS shall:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties,
- Ensure that the decision-maker for the appeal is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator,
- Ensure that the decision-maker for the appeal comply with the same standards of impartiality (i.e., without prejudgment of the facts, and without bias or conflicts of interest for or against either party),
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome,
- Issue a written decision describing the result of the appeal and the rationale for the result,
- Provide the written decision simultaneously to both parties.

TMUS will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

TMUS will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by TMUS to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or

evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless TMUS obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Written Notice of Allegations:

Upon initiation of these Title IX grievance procedures, the Title IX Coordinator will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- TMUS's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence; and

If, in the course of an investigation, TMUS decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

Dismissal of a Complaint:

- The Title IX Coordinator may dismiss a complaint if:
 - TMUS is unable to identify the respondent after taking reasonable steps to do so;

- The respondent is not participating in TMUS's education program or activity and is not employed by TMUS;
- TMUS obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and TMUS determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- TMUS determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, TMUS will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the Title IX Coordinator will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the Coordinator will notify the parties simultaneously in writing.

The Title IX Coordinator will notify the complainant that a dismissal may be appealed on the bases outlined in the Appeals section. If dismissal occurs after the respondent has been notified of the allegations, then TMUS will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, TMUS will follow the procedures outlined in the Appeals section.

When a complaint is dismissed, TMUS will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within TMUS's education program or activity.

Investigation:

TMUS will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on TMUS—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

TMUS will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

TMUS will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- TMUS will not limit the choice or presence of the advisor for the complainant or

respondent in any meeting or proceeding.

- TMUS may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

TMUS will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

TMUS will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

TMUS will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

TMUS will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- TMUS will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence;
- TMUS will provide a reasonable opportunity to review and respond to the evidence or the investigative report. If TMUS conducts a live hearing as part of its grievance procedures, it will provide this opportunity to review the evidence in advance of the live hearing; and
- TMUS will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

Questioning the Parties and Witnesses:

TMUS will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

TMUS's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough

time for the party to have a reasonable opportunity to propose follow-up questions.

Procedures for the decisionmaker to evaluate the questions and limitations on questions:

The decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.²³

Refusal to respond to questions and inferences based on refusal to respond to questions: The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Determination Whether Sex-Based Harassment Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, TMUS will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
 - A description of the alleged sex-based harassment;
 - Information about the policies and procedures that TMUS used to evaluate the allegations;
 - The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
 - When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions TMUS will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by TMUS to the complainant, and, to the extent appropriate, other students identified by TMUS to be experiencing the effects of the sex-based harassment; and
 - TMUS's procedures and permissible bases for the complainant and respondent to appeal.
- TMUS will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:

- Coordinate the provision and implementation of remedies to a complainant and other people TMUS identifies as having had equal access to TMUS's education program or activity limited or denied by sex discrimination;
- Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within TMUS's education program or activity.
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date that TMUS provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

Appeals:

TMUS will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, TMUS will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that TMUS will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal TMUS offers will be equally available to all

parties.

Informal Resolution:

In lieu of resolving a complaint through TMUS's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. TMUS will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. TMUS will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, TMUS will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information TMUS will maintain and whether and how TMUS could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

Supportive Measures:

TMUS will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the TMUS's education program or activity or provide support during TMUS's Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules,
- Campus escort services (as available)
- Mutual restrictions on contact between the parties
- Changes in work or housing locations (as available)
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Other similar measures

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, TMUS may impose disciplinary sanctions, which may include:

- Reprimand
- Fines

- Work details
- Required counseling
- Probation
- Suspension
- Expulsion from the residence halls or from the institution
- Withholding diploma
- Revocation of degree
- Transcript notation
- Other actions

Appropriate remedies will be designed to restore or preserve equal access to TMUS's education programs or activities, and may be individualized as determined by the Title IX Coordinator.

DEFINITIONS

Affirmative consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

Complainant means:

1. A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
2. A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

Complaint means an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

Disciplinary sanctions mean consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

Party means a complainant or respondent.

Relevant means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Remedies means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

Respondent means a person who is alleged to have violated the recipient's prohibition on sex discrimination.

Responsible Employee means an employee who has the authority to take action to redress sexual harassment or provide supportive measures to students, or who has the duty to report sexual harassment to an appropriate school official who has that authority.

- Responsible employee does not include individuals acting in a professional capacity for which confidentiality is mandated by law.

Retaliation means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

1. **Quid pro quo harassment.** An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
2. **Hostile environment harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
 - b. The type, frequency, and duration of the conduct;
 - c. The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location of the conduct and the context in which the conduct occurred; and
 - e. Other sex-based harassment in the recipient's education program or activity; or

3. **Specific offenses.**

- a. **Sexual Violence** means physical sexual acts perpetrated against a person without the person's affirmative consent.
- b. **Rape** defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim.
- c. **Sexual Battery** means the intentional touching of another person's intimate parts without consent, intentionally causing a person to touch the intimate parts of another without consent, or using a person's own intimate part to intentionally touch another person's body without consent.
- d. **Sexual Exploitation** means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, any of the following acts:
 - i. The prostituting of another person,
 - ii. The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion.
 - iii. The recording of images, including video or photography, or audio of another person's sexual activities or intimate parts, without that person's consent.
 - iv. The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio did not consent to the disclosure.
 - v. The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.
- e. **Sexual assault** meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- f. **Dating violence** meaning violence committed by a person:
 - i. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - 1. The length of the relationship;
 - 2. The type of relationship; and
 - 3. The frequency of interaction between the persons involved in the relationship;
- g. **Domestic violence** meaning felony or misdemeanor crimes committed by a person who:
 - i. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;

- ii. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - iii. Shares a child in common with the victim; or
 - iv. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- h. **Stalking** meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i. Fear for the person's safety or the safety of others; or
 - ii. Suffer substantial emotional distress.

Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

1. Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
2. Provide support during the recipient's grievance procedures or during an informal resolution process.