

**William Paterson University**  
**Student Sexual Misconduct and Non-Discrimination Process (Non-Title IX)**

<b>SUBJECT:</b>	Non-Discrimination Anti-Harassment	and	<b>TITLE:</b>	Student Sexual Misconduct and Non-Discrimination Process (Non-Title IX)	
<b>CATEGORY: Check One</b>	<b>Board of Trustees</b> <input type="checkbox"/>		<b>University</b> <input checked="" type="checkbox"/>	<b>Functional</b> <input type="checkbox"/>	<b>School/Unit</b> <input type="checkbox"/>
<b>Responsible Executive:</b>	Vice President of Student Development Vice President of Human Resources		<b>Responsible Office:</b>	Employment Equity and Diversity Office	
<b>CODING:</b>	00-01-		<b>ADOPTED:</b>		<b>AMENDED:</b>
				<b>LAST REVIEWED: 01/21/2021</b>	

I. PURPOSE

William Paterson University (The University) has adopted procedures in accordance with the Student Sexual Misconduct and Non-Discrimination Policy for allegations of: **Sexual Misconduct and Gender-Based Harassment** respectively containing, among other things: provisions on reporting; how to file a complaint internally or externally; supportive measures, the formal investigation process, and the alternative resolution process.

William Paterson University prohibits retaliation against student, faculty, or staff members who in good faith alleges that they were the victim of any form of sexual harassment, sexual misconduct, discrimination, or harassment or provides information in the course of an investigation; or is accused of violating Prohibited Conduct. No employee or student who in good faith files a report, provides information for an investigation, or testifies in any proceeding under this Policy shall be subjected to adverse employment or educational consequences based upon such involvement or be the subject of retaliation.

II. ACCOUNTABILITY

The Employment Equity and Diversity Office is responsible for implementation and enforcement of this policy and procedures. The Employment Equity and Diversity Office (OEED) will work in conjunction with the Accessibility Resource Center on matters involving students with disabilities and requests for reasonable accommodations of individuals participating in procedures governed by this policy. Students found responsible for a violation of Prohibited Conduct will be subject to the Student Code of Conduct adjudication process and other applicable university policies and procedures.

III. APPLICABILITY

This policy applies to students, from their time of acceptance and admission into William Paterson University, recognized student organizations, applicants, visitors, and guests, when the prohibited conduct occurs (A) on university property; (B) in the context of any university activity; (C) or outside the context of university activities but which may have the effect of posing a serious threat to the university community or creating a hostile environment for any members of the university community; (D) or activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University's programs and activities over which the University has substantial control.

IV. DEFINITION(S)

See Section IV “Definitions and Key Terminology” of the *Student Sexual Misconduct and Non-Discrimination Policy (Non-Title IX)*.

## V. BACKGROUND

The University is committed to complying with all applicable regulations including, (a) Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities; (b) the Clery Act (Campus SAVE) and the Violence Against Women Reauthorization Act of 2013 (VAWA) which ensures prompt, fair, and impartial investigation and resolution of allegations of sexual assault, stalking, dating violence, and domestic violence; (c) the Americans with Disabilities Act Amendments Act (ADA), as amended in 2008, that emphasizes that the definition of a "person with a disability" is someone with a physical or mental impairment that substantially limits one or more major life activities; and the (d) Family Educational Rights and Privacy Act (FERPA), which is a Federal law that protects the privacy of student education records and applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

The New Jersey Student Bill of Rights that calls for a student’s “access to safe, supportive and inclusive learning environments.” William Paterson University shares this vision and works to ensure that students are not only safe from harm but also included and welcome on campus.

## VII. POLICY

[See \*Student Sexual Misconduct and Non-Discrimination Policy \(Non-Title IX\)\*](#)

## VIII. PROCEDURE(S)

### **Procedures for Sexual Misconduct**

Upon receiving a notice of allegations of Sexual Misconduct, the Title IX Coordinator for Students or designee (“Title IX Coordinators”) will:

- A. Assess the allegation(s);
- B. Determine whether the alleged conduct would present a potential violation of the Student Sexual Misconduct and Non-Discrimination Policy and whether further action from the Title IX Coordinator(s) is required based on the alleged conduct;
- C. If applicable, notify the Complainant and invite to a preliminary interview, and offer Supportive Measures;
- D. During the preliminary interview the Title IX Coordinator(s) will review the allegation (s) and discuss available resolution options. The resolution options include, (1) *Alternative Resolution Process* or (2) *Formal Investigation Process*. The Alternative Resolution Process and Formal Investigation Process are separate processes and are explained below.

#### **1. Alternative Resolution Process**

Alternative Resolution is a voluntary process within the Student Sexual Misconduct and Non-Discrimination process is grounded in restorative practices. The Alternative Resolution process provides methods (i.e. facilitated conversations, shuttling, circling, and mediation) of resolving incidents when the Complainant does not want a formal investigation. Or, when the Title IX Coordinator(s) may seek to resolve certain cases through an Alternative Resolution process involving both the Complainant and Respondent.

*For example, a Complainant and Respondent may agree with the Title IX Coordinator that education and training for the Respondent are an appropriate and sufficient response in a particular case, or that a No Contact order between the parties provides remediation for the Complainant;*

A Respondent who fully participates in the process will not be charged with a violation of University Policy for the allegation occurred as part of the matter. The Alternative Resolution process is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the Complainant while still maintaining the safety of the overall campus community.

Alternative Resolution can be introduced during the preliminary assessment, the formal investigation, or after its conclusion. If, based on the information known about the incident, the Title IX Coordinator(s) believes such a resolution is possible, the Title IX Coordinator(s) will contact the Complainant. If the Complainant agrees, the Title IX Coordinator will then contact the Respondent. The Alternative Resolution process allows a Respondent to accept responsibility for their behavior and/or potential Harm.

If both Complainant and Respondent are satisfied with the proposed resolution and the Title IX Coordinator(s) believe the resolution satisfies the University's obligation to provide a safe and non-discriminatory environment for all students, the resolution will be implemented, the disciplinary process will be concluded, the matter will be closed, and both parties will be provided with written notice of the resolution agreement. If these efforts are unsuccessful, the investigation and/or disciplinary process will continue. Before starting these discussions, the Title IX Coordinator(s) will notify the Complainant and Respondent in writing that each has the right to end the informal process at any time.

**a. Alternative Resolution Requirements for Participation**

The Alternative Resolution process will only be used at the request and agreement of **both** the Complainant and Respondent and under the direction of the Title IX Coordinator(s), or designee.

In order for the Alternative Resolution process to be appropriate **both** parties must have an understanding and agree on the necessary elements of the process. Both the Complainant and Respondent will have to agree to established terms should they wish to participate in the Alternative Resolution process.

For matters of sexual assault, domestic & dating violence, the Alternative Resolution process may only be offered after a formal complaint is filed.

**The University will not offer or facilitate an Alternative Resolution process to resolve allegations that an employee sexually harassed a student. Or, in matters of sexual assault involving students.**

**b. Alternative Resolution Educational Outcomes for Students**

- i. **Restorative practices.** Discussion of the allegations by trained facilitators with any persons or departments harmed and development of a shared agreement of how to correct the harm. Unlike other sanctions, all participants must voluntarily agree to participate in the restorative process.
- ii. **Facilitated Conversations** Participation in a mediated discussion with other disputants facilitated by trained administrators with the hope of developing a negotiated agreement serving as resolution to the dispute.
- iii. **Other Discretionary outcomes** may include educational assignments, essays, presentations, research projects, conduct contracts, service to the University, or other discretionary assignments.

## **2. Formal Investigation Process**

### **a. The Phases of a Formal Investigation Process**

The formal investigation process is follows: (a) Preliminary Interview (b) Notification of Allegations and Investigation, (c) Information Gathering, (d) Information Review, (e) Evaluation of Facts and Relevant Evidence, (f) Adjudication of Allegation and Determination of Responsibility, (g) Appeal of Determination, (h) Educational Outcomes and Disciplinary Sanctions, and the (i) Appeal of Sanctions.

The timeframe for the formal investigation process begins with the filing of a formal complaint. The formal investigation process will be concluded within a reasonably prompt manner, and no longer than ninety (90) business days after the filing of the complaint. The formal investigation process may be extended for a good reason.

### **b. Notification of Allegations and Investigation**

For all reports that proceed to the Formal Investigation Process the Title IX Coordinator (s) shall send a Notice of Allegation and Investigation. The Title IX Coordinator (s) will designate a team of investigators to interview and gather relevant evidence from the Complainant, Respondent, and any witnesses.

The Title IX Coordinator (s) sends formal written communication to both the Complainant and the Respondent. The communication includes information about the investigation process including the allegations to be investigated, what Prohibited Conducted and what sections of the policy against which the allegations are assessed, the name of the investigators, the rights the Complainant and Respondent have throughout the investigation process, and any other information that is pertinent to the investigation of that particular case.

### **c. Information Gathering**

The investigators will gather information related to the allegations. During this phase of the process, the Complainant and Respondent are each provided an opportunity to provide information for the investigators to review, to interview with the investigators, and to provide the names of witnesses for the investigators to interview.

Both the Complainant and the Respondent have the right to be assisted by one advisor of their choice. The advisor may assist the student in the preparation of their information and be present during the interviews; the advisor may help provide support to the student. The advisor does not have a speaking role during the interview process. An advisor who interferes in the interview and investigation process will be removed from the interview.

The investigators will meet with the Complainant and Respondent separately to discuss the evidence that will be used to reach an outcome and to allow the parties the opportunity to present any additional information, evidence, or witnesses that were not included but have relevant information.

The investigators will take handwritten or typed notes of all interviews and based on those notes will prepare written summary for each interviewee. The Complainant, Respondent, and witnesses will have the opportunity to review the summary of their comments and provide the investigator with corrections or revisions prior to the conclusion of the investigation.

The Title IX Coordinator(s) will communicate with the investigators regularly throughout the investigation to ensure that the investigation is thorough, impartial, and fair.

The Title IX Coordinator(s) will also ensure that both the Complainant and Respondent are updated throughout the investigative process, including with timely notice of meetings where either or both the Complainant and the Respondent may be present. The investigator(s) will complete the investigation, ideally, within sixty days (60) business days after the notice of allegations and investigation. The formal investigation process may be extended for a good reason.

At the conclusion of the investigation, the investigator(s) will prepare a report for the Title IX Coordinator (s) detailing the relevant content gathered from the interviews and any supporting documentation.

#### **d. Information Review**

At the conclusion of the information gathering phase, the Complainant and the Respondent will each be provided an opportunity to review and respond to the investigation summary that the investigators have gathered. The investigators will provide the report to the Title IX Coordinator(s) within ten (10) business days after concluding the investigation.

1. If either party provides a written response, the investigators will determine if there is a need for further investigation, and if so, will inform Title IX Coordinator (s). The Title IX Coordinator (s) will direct the investigators to conduct further investigation until the investigators determine the fact-finding is complete. Any new information that is relevant to the investigation will be revealed to the Complainant and the Respondent and each party will be provided the opportunity to respond and evaluate the evidence.
2. If neither party provides a written response by the time frame outlined in the notification, fact finding is determined to be complete.
3. The Complainant and Respondent will be provided the opportunity to write an Impact Statement.
  - a. Impact Statements are an opportunity for the Title IX Coordinator (s), the Administrative Sanction Officer (Director of Student Conduct or designee), and the University Sanction Committee to read and learn how the alleged misconduct has affected each student.
  - b. An Impact Statement is a written or oral statement presented to the Title IX Coordinator (s), at the conclusion of an investigation, but prior to adjudication.

#### **e. Evaluation of Facts and Relevant Evidence**

After the Complainant and Respondent have been given an opportunity to review and respond to the information gathered by the investigators, and submit an impact statement, the information will be turned over to the Title IX Coordinator (s) or designee for adjudication. The investigators write a formal investigation report which shall include an analysis and assessment from the investigation.

The Title IX Coordinator (s) reviews, weighs, and analyzes the information and relevant evidence using the “preponderance of evidence” standard. This means the Title IX Coordinator(s) reviews the information to determine whether it was “more likely than not” that the alleged conduct occurred, based on the evidence, and relevant content determined during the investigation.

#### **f. Adjudication of Allegation and Determination of Responsibility**

The Title IX Coordinator (s) will adjudicate the case and make a determination of responsibility and a violation of the *Student Sexual Misconduct and Non-Discrimination Policy*.

The Title IX Coordinator (s) will send, via William Paterson University email account, formal written communication to the Complainant and the Respondent within ten (10) business days.

The communication includes information about the finding of responsibility and an analysis to support the determination.

**g. Appeal of Determination**

Each party shall be provided the opportunity to appeal the determination of the Title IX Coordinator (s). If an appeal is submitted, the Title IX Coordinator(s) will refrain from sending the case to the office of Student Conduct until after the appeal timeframe has lapsed.

The Vice President of Student Development or designee serves as the appeal officer for these cases.

An appeal must be submitted in writing to the Vice President for Student Development within five (5) business days of receipt of the Title IX Coordinator (s) decision letter and must be received by 11:59pm on the fifth business day citing one or more of the following grounds for appeal:

- a) Determination that seem disproportionate to the policy violation (s).
- b) Procedural error of the formal investigation process that affected the outcome.
- c) New information that was not known to the Title IX Coordinator (s) at time of determination of responsibility. Please be advised that a student’s failure to participate in the investigation does not constitute grounds for appeal on the basis of new information.

When a party requests an appeal, the other party (parties) will be notified of the appeal and grounds and given an opportunity to respond with a written statement submitted to the Vice President for Student Development within five (5) business days of the notification. The written response must be received by 11:59pm on the fifth business day.

The Vice President for Student Development or designee will review the appeal and any subsequent responses and render a decision, in writing to all parties, within ten (10) business days of the final submittal deadline. There will be no further appeal of the determination.

The original determination will stand if the appeal is not timely or is not based on the grounds listed above, and such a finding are final.

Note: Appeals are not intended to be full investigation of the complaint. Appeals are confined to a review of the written documentation or record of the original and pertinent documentation regarding the grounds for appeal.

**h. Educational Outcomes and Disciplinary Sanctions**

Upon receipt of the determination of responsibility the Title IX Coordinator (s) shall determine the appropriate (1) *Educational Outcomes*, or make a referral to the Office of Student Conduct for (2) *Disciplinary Sanctions*. See [Student Sexual Misconduct and Non Discrimination Policy](#) pg. 26 – *Range of Sanctions for Respondents*.

Each violation of Sexual Misconduct allows for a range of outcomes and sanctions. A violation that is more egregious receives more severe sanctions (such as Suspension and Expulsion from the University) within the allotted range and a less egregious violation results in less severe sanctions within the same range (such as Campus Life Probation or Disciplinary Probation).

**Educational Outcomes**

Educational outcomes shall be issued to a student found responsible for any form of Sexual Misconduct. Any finding of responsibility, no matter how slight, will result in students being assigned educational outcomes.

Educational outcomes shall be issued by the Title IX Coordinator (s). Disciplinary sanctions shall be issued by the Administrative Sanctioning Officer (Director of Student Conduct or designee).

Examples of Educational Outcomes include, but not limited to:

- *Sexual Misconduct Module*
- *Alcohol and Drug Module*
- *Community Service during campus Prevention and Awareness Events*
- *Participate in Awareness & Prevention Sessions*
- *Other Educational Requirements as assigned by the Title IX Coordinator(s).*

A student's failure to comply with the educational outcomes may be subject to the [Student Code of Conduct](#).

### **Disciplinary Sanctions**

The determination of disciplinary sanctions for violations requires careful review of numerous factors and circumstances. Some factors are specific to the Respondent, such as a prior history of misconduct, evidence of a pattern of behavior, and/or multiple violations within the same occurrence. Other factors relate to the circumstances surrounding or contributing to the offense at issue, such as the severity of the incident, the intentionality or premeditation of the behavior, and/or whether the conduct involved physical violence, a minor, and/or the use of a weapon. Neither the Complainant nor the Respondent shall participate in the Administrative Sanction Meeting or the University Sanction Committee Meeting.

**Administrative Sanction Meeting** – For cases that may result in Disciplinary Probation and/or loss of housing the Title IX Coordinator (s) will refer the case to the Administrative Sanction Officer (Director of Student Conduct or designee) for an Administrative Sanction Meeting.

**University Sanction Committee** – For cases that may result in Suspension, Expulsion, including loss of housing, the Title IX Coordinator (s) will refer the case to the University Sanction Committee.

### **Administrative Sanctioning Officer**

For cases referred to the Administrative Sanction Officer (Director of Student Conduct or designee), the Title IX Coordinator (s) shall provide a summary of relevant facts & evidence and a case analysis related to the finding of responsibility. The Title IX Coordinator (s) shall provide any prior history of sexual misconduct, evidence of a pattern of behavior, and/or multiple violations within the same occurrence (if any). The Title IX Coordinator (s) shall provide the Impact Statement, if applicable.

The purpose of the meeting is to identify the appropriate sanction. See Appendix A - *Prohibited Conduct and Definitions for Findings of Responsibility*.

Disciplinary sanctions will likely include an educational requirement issued by the Administrative Sanction Officer (Director of Student Conduct or designee).

Upon completion of an Administrative Sanction Meeting, the Respondent will receive a letter via their William Paterson University email account to notify them of the determined sanction. The Complainant shall carbon copied on the outcome letter with the sanctions issued to the Respondent.

### **The University Sanction Committee**

For cases referred to the University Sanction Committee, the Title IX Coordinator (s) shall provide a summary of relevant facts & evidence and a case analysis related to the finding of responsibility. The Title IX Coordinator (s) shall provide any prior history of sexual misconduct, evidence of a pattern of behavior, and/or multiple violations within the same occurrence (if any). The Title IX Coordinator (s) shall provide the Impact Statement, if applicable.

The purpose of the meeting is to identify the appropriate sanction. See Appendix A - *Prohibited Conduct and Definitions for Findings of Responsibility*.

1. The Director of Student Conduct or designee will coordinate a University Sanction Committee Meeting with three members<sup>1</sup> and the Title IX Coordinator(s).
2. The sanctioning meeting conducted by the University Sanction Committee meeting is closed. Title IX Coordinator(s) and Title IX Investigators shall be available to answer questions of the University Sanction Committee.
3. The Director of Student Conduct or designee acting on behalf of the University Sanction Committee, shall inform both parties of the sanction, via William Paterson University email account, of the final outcome of the University Sanction Committee, the sanction(s) imposed by the University Sanction Committee, the appropriate stipulations, and the appeal process, if applicable.
4. All deliberations of the University Sanction Committee meetings are private, however, a summary of the rationale for sanction shall be included in the outcome provided to both parties. A copy of the rationale shall be maintained with the outcome letter with the Title IX Coordinator (s).
5. Respondent Failure to Comply charges resulting from Sexual Misconduct allegations the Complainant shall be carbon copied on the Student Conduct outcome.

#### **i. Appeal of Sanctions**

Either the Complainant or Respondent may appeal the sanctions issued by the University Sanction Committee. The Vice President of Student Development or designee serves as the appeal officer for these cases.

#### **Loss of Housing, Suspension, and Dismissal are appealable.**

The implementation of sanctions involving loss of campus housing or class attendance may be delayed only when the Respondent files an appeal regarding loss or suspension of these privileges. These privileges may be reinstated pending the conclusion of the appeal process. Sanction implementation is subject to the Safety Analysis.<sup>2</sup>

An appeal must be submitted in writing to the Vice President for Student Development within five (5) business days of receipt of the University Sanction Committee's decision letter and must be received by 11:59pm on the fifth business day citing one or more of the following grounds for appeal:

- a) Sanctions that seem disproportionate to the policy violation(s).
- b) Procedural error of the grievance process.

When a party requests an appeal, the other party (parties) will be notified of the appeal and grounds and given an opportunity to respond with a written statement submitted to the Vice President for Student Development

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<sup>1</sup> See the definitions section of the Student Sexual Misconduct and Non-Discrimination Policy

<sup>2</sup> Student Respondents are subject the safety and risk analysis.



within five (5) business days of the notification. The written response must be received by 11:59pm on the fifth business day.

The Vice President for Student Development or designee will review the appeal and any subsequent responses and render a decision, in writing to all parties, within ten (10) business days. There will be no further appeal.

The original sanctions will stand if the appeal is not timely or is not based on the grounds listed above, and such the sanctions are final.

Note: Appeals are not intended to be full reconsideration of the complaint. Appeals are confined to a review of the written documentation or record of the sanction committee meeting and pertinent documentation regarding the grounds for appeal.

## Procedures for Gender-Based Harassment

Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the University's education or work programs or activities.

Upon receiving a notice of allegations of Gender-based Harassment, the Deputy Title IX Coordinator for Students or designee ("Title IX Coordinators") will:

1. Assess the allegation(s);
2. Determine whether the alleged conduct would present a potential violation of the *Sexual Misconduct and Non-Discrimination Policy* and whether further action from the Title IX Coordinator(s) is required based on the alleged conduct;
3. Invite Complainant to preliminary interview to review allegation(s) and to discuss the formal investigation process and alternative resolution processes.

### Alternative Resolution

Alternative Resolution is a voluntary process within the Student Sexual Misconduct and Non-Discrimination Policy that is grounded in Restorative Practices. The Alternative Resolution process permits methods (i.e. facilitated conversations, shuttling, circling, and mediation) of resolving incidents when the Complainant does not want a formal investigation. Or, when the Title IX Coordinator(s) may seek to resolve certain cases through an Alternative Resolution process involving both the Complainant and Respondent.

*For example, a Complainant and Respondent may agree with the Title IX Coordinator that education and training for the Respondent are an appropriate and sufficient response in a particular case, or that a No Contact order between the parties provides remediation for the Complainant;*

A Respondent who fully participates in the process will not be charged with a violation of University Policy for the allegation occurred as part of the matter. The Alternative Resolution process is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the Complainant while still maintaining the safety of the overall campus community.

Alternative Resolution can take place during the preliminary assessment, the formal investigation, or after its conclusion. If, based on the information known about the incident, the Title IX Coordinator(s) believes such a resolution is possible, the Title IX Coordinator(s) will contact the Complainant. If the Complainant agrees, the Title IX Coordinator will then contact the Respondent. The Alternative Resolution process allows a Respondent in a cases to accept responsibility for their behavior and/or potential Harm.

If both Complainant and Respondent are satisfied with the proposed resolution and the Title IX Coordinator believes the resolution satisfies the University's obligation to provide a safe and non-discriminatory environment for all students, the resolution will be implemented, the disciplinary process will be concluded, the matter will be closed, and both parties will be provided with written notice of the resolution. If these efforts are unsuccessful, the investigation and/or disciplinary process will continue. Before starting these discussions, the Title IX Coordinator(s) will notify the Complainant and Respondent in writing that each has the right to end the informal process at any time.

### **Alternative Resolution Requirements for Participation**

The Alternative Resolution process will only be used at the request and agreement of **both** the Complainant and Respondent and under the direction of the Title IX Coordinator (s) or designee.

In order for the Alternative Resolution process to be appropriate **both** parties must have an understanding and agree on the necessary elements of the process. Both the Complainant and Respondent will have to agree to established terms should they wish to participate in the Alternative Resolution process.

For matters of sexual assault, domestic & dating violence, the Alternative Resolution process may only be offered after a formal complaint is filed.

**The University will not offer or facilitate an Alternative Resolution process to resolve allegations that an employee sexually harassed a student. Or, in matters of sexual assault involving students.**

### **Alternative Resolution Education Outcomes for Students**

- I. **Restorative Practices.** Participation in a discussion by trained facilitators with any persons or departments Harmed and development of a shared agreement of how to correct the Harm. Unlike other sanctions, all participants must voluntarily agree to participate in the restorative process.
- II. **Facilitated Conversations.** Participation in a mediated discussion with other disputants facilitated by trained mediators with the hope of developing a negotiated agreement serving as resolution to the dispute. Unlike other sanctions, all participants must voluntarily agree to participate in mediation.
- III. **Other Discretionary outcomes.** May include educational assignments, essays, presentations, research projects, conduct contracts, service to the University, or other discretionary assignments.

### **Investigative Responses**

Intake investigation, fact finding and resolution of all complaints of gender-based harassment will be conducted by the Title IX Coordinator (s) or designee who will obtain information regarding the complaint, and determine if supportive measures or interim measures are necessary to prevent continued violations of the Student Sexual Misconduct and Non-Discrimination Policy.

At the discretion of the Title IX Coordinator (s) or designee, a prompt, thorough, and impartial investigation into the alleged harassment or discrimination will take place.

An investigatory report will be prepared by Title IX Coordinator (s) or designee, when the investigation is completed. The investigatory report will include,

1. A summary of the complaint
2. A summary of the parties' positions
3. A summary of the facts developed through the investigation; and
4. An analysis of the allegations and the facts
5. A summary of the determination

The Title IX Coordinator (s) or designee will communicate the final determination to both students. Determinations of responsibility for gender-based harassment may be referred to the [Office of Student Conduct](#) for adjudication and sanctioning.

The time for completion of the investigation and issuance of the final letter of determination may be extended by William Paterson University for up to 60 additional days in cases involving exceptional circumstances.

By Direction of the President and Cabinet:

Date

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(Title of Executive or Vice President(s) whose area of responsibility the policy covers.)



## Appendix A – Prohibited Conduct and Definitions

Each violation of Sexual Misconduct allows for a range of outcomes and sanctions. A violation that is more egregious receives more severe sanctions (such as Suspension and Expulsion from the University) within the allotted range and a less egregious violation results in less severe sanctions within the same range (such as Campus Life Probation or Disciplinary Probation).

This provides consistency and transparency for the parties involved in the sanctioning process, helps to avoid arbitrary and capricious sanctioning decisions, and the appearance of the same, and simultaneously recognizes that certain instances of a particular type of misconduct can be articulated as being more severe than others.

### 1. Sexual Exploitation

**Sexual Exploitation without Consent** – Taking, attempting to take, or assisting another in taking sexual advantage of an individual without their Consent for one’s own advantage or benefit or to benefit or advantage anyone other than the one being exploited, and the behavior does not otherwise constitute one of the other Sexual and Interpersonal Misconduct offenses. Sexual Exploitation includes, but is not limited to, prostituting an individual; recording, photographing, or distributing identifiable images of a private sexual activity and/or the intimate parts (including genitals, groin, breasts, or buttocks) of an individual; allowing a third party to observe private sexual activity; engaging in voyeurism; or otherwise invading sexual privacy.

### 2. Intimate Partner Violence including forms of Relationship and Interpersonal Violence

Engaging, attempting to engage, or assisting another in engaging in Relationship Violence, which includes incidents that do not rise to a [Title IX Grievance Policy or Process](#) will be addressed by the [Student Code of Conduct](#).

Committing an act against an individual with whom the Complainant is or has been in a social relationship of a romantic, casual sexual, or intimate nature. The existence of such a relationship shall be determined based on a consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the individuals involved in the relationship. Roommates shall not be considered intimate partners.

Students found responsible of any form of Interpersonal Violence (including Intimate Partner and Dating Violence) will be subject to mandatory education requirements. Students who are involved in relationship and interpersonal violence may be subject to the [Title IX Grievance Policy for Sexual Harassment Complaints](#) or the [Student Sexual Misconduct and Non-Discrimination Policy](#).

### 3. Stalking (Including Cyberstalking)

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person’s safety or the safety of others; or
- Suffer substantial emotional distress.

The definition stalking includes —

- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Students who are involved in stalking incidents may be subject to the [Title IX Grievance Policy for Sexual Harassment Complaints](#).

#### 4. Non-Consensual Sexual Contact

**Sexual Act without Consent** (including Coercion, Force, or Incapacitation) – Engaging, attempting to engage, or assisting another in engaging in any sexual penetration (anal, oral, or vaginal), however slight, with any object, without Consent.

**Sexual Contact without Consent** (including Coercion, Force, or Incapacitation) – Deliberately touching, attempting to touch, or assisting another in touching an individual's intimate parts (including genitals, groin, breast, mouth, buttocks, or any other orifice or clothing covering any of those areas), touching an individual with one's intimate parts, or causing an individual to touch their own or another individual's intimate parts, without Consent. Sexual Contact includes any intentional bodily contact in a sexual or unwanted manner, even if the contact does not involve contact with intimate parts.

**Sexual Exhibitionism without Consent** (including Coercion, Force, or Incapacitation) – Engaging, attempting to engage, or assisting another in engaging in a sexual activity or exposing one's intimate parts (including genitals, groin, female breast [other than when breastfeeding a child], mouth, or buttocks) in the presence of others without their Consent.

Students who are involved in non-consensual sexual contact incidents may be subject to the [Title IX Grievance Policy for Sexual Harassment Complaints](#).

#### 5. Retaliation

Engaging in punitive behavior against an individual for making a good faith report of prohibited conduct or participating in any proceeding under these policies is also included as prohibited conduct.

**Acts of Coercion, Force, and Incapacitation renders Consent null.**

##### *Additional Definitions*

**Consent:** is defined as informed, voluntary and mutual, and may be withdrawn at any time. Consent is not obtained with express or implied force, coercion, intimidation, threat, or duress. Consent to a sexual act must be expressed, and be fully informed and a freely decided choice to participate in sexual contact or intercourse. Consent cannot be assumed or implied by silence or the absence of physical or verbal resistance. Consent is an affirmative, unambiguous and conscious decision. Consent to one type of sex act does not imply consent to other forms and must be ongoing throughout a sexual encounter. Past consent to sexual activity does not imply ongoing future consent with a person or consent to the same activity with another person. If a person is mentally or physically incapacitated or impaired so that a person cannot understand the fact, nature or extent of the sexual situation, there is no consent. This includes incapacitation by use of alcohol and/or drug consumption or being asleep or unconscious. Generally, the age of consent in New Jersey is 16. Please refer to NJ State Law (N.J. Stat. Ann. § 2C:2-10) or [RAINN](#) for full consent and statutory rape laws.

**Coercion:** Coercion is the use of pressure to compel another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Coercion renders an individual unable to consent.

**Force:** Force is the use or threat of physical violence to overcome an individual's freedom of will to choose whether or not to participate in sexual contact. Force renders an individual unable to consent.

**Incapacitation:** A person who is incapacitated is not capable of giving valid, affirmative consent. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the who, what, when, where, why or how of the sexual activity. A person may be incapacitated as a result of a temporary or permanent mental or physical condition, sleep, or unconsciousness. A person may be incapacitated as a result of the consumption of alcohol or drugs. A person who is not incapacitated at the beginning of sexual activity, may eventually reach a state of incapacitation as the activity progresses due to alcohol or drug intake prior to or during the activity. Incapacitation is a state of impairment significant enough to render a person unable to understand the fact, nature, or extent of the sexual activity. For the purpose of this policy, the standard that shall be applied is whether or not a reasonable person would have known, based on the facts and circumstances presented, that the other person was incapacitated and therefore, not capable of giving consent.

## Appendix B - Considerations for Sexual Misconduct Violations and Sanctioning

Having a range of sanctioning provides consistency and transparency for the parties involved in the sanctioning process, helps to avoid arbitrary and capricious sanctioning decisions, and the appearance of the same, and simultaneously recognizes that certain instances of a particular type of misconduct can be articulated as being more severe than others.

Each Prohibited Conduct violation of Sexual Misconduct allows for a range of outcomes and sanctions. A violation that is more egregious receives more severe sanctions (such as Suspension and Expulsion from the University) within the allotted range and a less egregious violation results in less severe sanctions within the same range (such as Campus Life Probation or Disciplinary Probation). Certain circumstances permit a decision maker to deviate from the sanction range outlined below<sup>3</sup>.

Factors to consider in determining appropriate sanctions include:

- The nature of the offense,
- The severity of the offense,
- The culpability of the student or student group,
- The impact on other students or members of the University community, and
- The opportunity for student development.

Also, each case involving sexual misconduct are unique and the facts/findings may yield different results. These factors, if present, **may increase the severity of sanctions.**

- Use of force
- Use of weapons
- Incapacitation and/or drugs
- Threats to the community
- Coercion
- Manipulation
- Persistent violations and prior conduct history
- Penetration

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<sup>3</sup> The Title IX Coordinators or designee will conduct a safety assessment to determine the potential threat to the community. The University retains the right to remove a student who poses a threat to the community at any time.