

SEXUAL MISCONDUCT POLICY AND PROCEDURES



GEORGE FOX
UNIVERSITY

Updated: August 2023

INTRODUCTION TO THE UNIVERSITY SEXUAL MISCONDUCT POLICY

George Fox University is committed to providing a Christ-centered community that fosters a safe living, learning, and work setting for students, employees, and visitors. A core value of this institution is to maintain a respectful environment for all individuals that is free of the following:

- Sexual Harassment
- Sexual Assault
- Domestic Violence
- Dating Violence
- Stalking
- Sexual Exploitation

This policy applies to cases that fall under the jurisdiction of the Department of Education's Title IX Regulations, published May 19, 2020, as well as those cases that fall under the jurisdiction of Oregon HB 3415. The University will have the discretion to refer complaints of misconduct not covered by this Policy to any other appropriate office for handling or resolve other complaints of misconduct under any other applicable University policy or code. This is not to suggest that any case is more or less important, but instead a reflection of federal and state regulations that apply only to a specifically-identified set of cases.

If you are unclear about any of the policies and procedures and would like to get more information, you may speak on a non-confidential basis with the Title IX Coordinator.

Throughout this policy, various University officials are assigned responsibility for performing specific functions. Named officials are authorized to delegate responsibility to other appropriate University officials and non-university consultants except where such delegation contravenes University policy. Additionally, named officials and their designees may consult with appropriate University officials, the Office of General Counsel, non-university consultants and subject matter experts in making a determination if the incident meets the definitions and jurisdictional elements outlined in the Title IX federal policy or the University Sexual Misconduct policy.

Notice of Non-Discrimination

Sexual misconduct against members of the campus community, guests, and visitors is not tolerated. George Fox University commits to providing an educational environment free of all forms of sex discrimination, including but not limited to unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct or communications constituting sexual harassment, as defined in this policy and as

otherwise prohibited by state and federal statutes. Sexual harassment, including acts of sexual assault and sexual violence, is a form of sex discrimination and is prohibited at George Fox University. This prohibition against discrimination on the basis of sex applies to all students, faculty and staff, to other members of the George Fox community, and to contractors, consultants and vendors doing business or providing services to the University. Conduct that does not meet the definitions stated in Title IX or Oregon HB 3415 may still be subjected to other university codes of conduct.

All members of the community must conduct themselves in a way that does not infringe upon the rights of others. The University's sexual misconduct policy defines expectations for appropriate conduct and outlines resolution processes to address conduct that does not meet these expectations. When individuals are found to be in violation of the policy, the University will impose appropriate sanctions.

All members of the campus community, guests, and visitors are protected by this policy regardless of their sex, sexual orientation, or gender identity. The University has jurisdiction over all acts of sexual misconduct involving members of the campus community, no matter where they occur, whether on or off campus.

For questions or to submit a report, please contact:

- Title: Title IX Coordinator
- Office location: 206 N Meridian St | Newberg, OR 97132
- Phone number: 503.554.2317
- Email: Titleix@Georgefox.edu

TERMS AND DEFINITIONS

If there is a conflict between any definition in this procedure and the definition- assigned terms in other University policies, the specific definitions in this policy control.

Advisor of Choice

Both the reporting party and responding party have the right to an *advisor of choice* present during any administrative meeting related to the processes outlined in this policy. This person may be anyone, regardless of their relationship to the reporting party/responding party and regardless of their affiliation to the University. The advisor of choice may not interject, speak or act on behalf of a party, take any action that impedes or disrupts, nor interrupt the meetings. If the formal complaint falls under the Title IX process, the advisor of choice has the responsibility to ask cross-examination questions during the hearing portion of the process. If a reporting party or responding party does

not have an advisor of choice, the University will assign a Hearing Advisor to them (see definition of Hearing Advisor).

Complainant

An individual (enrolled student, University employee, applicant or alum) who files a complaint to report a violation of this policy. It also includes any person who is reported to have experienced a violation of this policy in cases where some other person has made a report on that person's behalf.

Coercion

Coercion refers to conduct or intimidation that would compel an individual to do something against their will by (1) the use of physical force, (2) threats of severely damaging consequences, or (3) pressure that would cause a reasonable person to fear severely damaging consequences. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. Coercive behavior differs from seductive behavior based on the degree and type of pressure someone used to get consent from another

Consent

An informed agreement between participants to willingly and actively participate in sexual activity established through continuous communication using mutually understandable words or actions that create clear permission.

Consent as defined above may be also considered in light of the following:

- It is the responsibility of the person initiating the specific sexual contact or activity to obtain consent for that contact or activity.
- The use of force or coercion, whether actual or inferred, immediate or future, physical harm, threat, or intimidation may invalidate consent.
- Silence, or a lack of physical or other resistance on the part of a participant, does not itself constitute consent.
- If any participant communicates a desire to end a sexual activity or withdraws consent, it should be stopped immediately.
- The use of alcohol or other drugs by any participant does not change the need to obtain consent for sexual activity.
- Incapacitation can be a result of a mental or physical condition or state (such as being asleep), a voluntary or involuntary consumption of alcohol, or other drugs.
- Consent cannot be given by someone who is under the age of 18 years of age unless where allowed by law (Ore. Rev. Stat. § 163.345 (2018)).
- Consent cannot be given by someone who is known to be or should have known to be mentally or physically incapacitated.

- Consent is required regardless of current or previous dating relationship or history of sexual contact between participants.

Days

Any reference to days within this Policy will be counted as the University business days unless otherwise specified.

Evidence

Information submitted by parties and witnesses that is related to the case being investigated. Examples include, but are not limited to: screenshots of text communication or social media, pictures, call logs, and receipts. Formal rules of evidence are not observed in the process outlined in this Policy.

Formal Complaint vs. Report

Disclosure of a sexual misconduct incident to a Title IX Coordinator constitutes a *report*. Making a report enables the reporting party to access supportive measures available to them per Title IX regulations. Making a report does not automatically launch an investigation or formal grievance process. The Title IX Coordinator will work with the reporting party to understand their wishes and desired outcomes while simultaneously assessing any threat to the individual and/or community.

A *formal complaint* is required to launch the formal grievance and investigation process. A formal complaint must be made in writing (electronic communication is acceptable) to the Title IX Coordinator. The Title IX Coordinator may file a formal complaint on behalf of the University if they deem there is a threat to an individual or to the community.

HB 3415

Effective January 1, 2020, requires institutions of higher education in the State of Oregon to both adopt written policies and require certain individuals to participate in annual training on sexual harassment, sexual assault, domestic violence, dating violence and stalking that occur both on and off campus.

Hearing Advisor

Each party is entitled to one Hearing Advisor at the hearing. The Hearing Advisor may be the same person who serves as the Advisor of Choice during the investigation process. The role of the Hearing Advisor is to ask questions of the other Party and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party will be permitted to ask questions of the other Party, or of a witness. An advisor of the University's choosing will be provided for any party who does not have an advisor for the purpose of asking questions of the other party and

witnesses at the hearing. The advisor will still attend the hearing even if the party chooses not to be present at the hearing.

Hearing Officer

The hearing officer is responsible for conducting the hearing and issuing a finding based upon a preponderance of the evidence. In a Title IX hearing, the hearing officer is responsible for determining whether a cross-examination question is relevant and permissible to the hearing. The hearing officer also writes the notice of determination and coordinates with the Title IX Coordinator on the timing of sending the notices simultaneously to both parties. In a hearing related to allegations of prohibited conduct under H3415, a closed administrative hearing will be held to resolve the case. A team of two hearing officers will meet privately to review the final investigation report and make a determination of responsibility.

Incapacitation

A state where an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction) or is physically helpless. An individual asleep or unconscious is considered to be incapacitated and unable to consent to sexual activity. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition. Incapacitation may result from the use of alcohol, drugs, or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation.

Informal Resolution

Students and employees have the option to choose an informal resolution process rather than the formal Title IX investigation and hearing. An informal resolution gives both parties an opportunity to participate in a mediated process in order to come to a mutually agreeable resolution. Both parties must freely choose to participate in an informal resolution.

Investigator

A trained and impartial person designated by the University to investigate allegations of Prohibited Conduct.

New Evidence

New evidence is defined as evidence that was not available during the investigation and review of evidence period. If a party had knowledge of the evidence but chooses not to introduce it during the investigation, it will not be considered new evidence.

Party

A Complainant or Respondent in a case.

Preponderance of evidence

The standard of evidence used during the investigation to determine whether the alleged conduct occurred and whether this Policy was violated. It means “more likely than not.”

Respondent

An individual against whom a complaint is filed.

Responsible Employee

University employee policy requires every employee (with the exception of those granted confidentiality privileges such as campus pastors and health and counseling professionals) to make a report to the Title IX Coordinator when a student discloses that they have experienced an incident of sexual misconduct.

The Sexual Misconduct CARE (Campus Awareness, Response, and Education) Team

A group designated by the University to respond to incidents of sexual misconduct and sex discrimination, provide resources and services to survivors of sexual violence, and educate the campus community on issues related to sexual violence and sex discrimination.

Support Person

The reporting party may bring a support person with them to any meeting, even prior to filing a formal complaint. This support person can also be anyone, regardless of their affiliation to the University or their relationship to the reporting party. The support person must also refrain from speaking or acting on behalf of the reporting party.

Supportive Measures

Supportive measures are actions coordinated by the Title IX Coordinator that restore or preserve access to educational activities and programs. These measures are assessed on an individual basis and take into consideration the reporting party’s needs and wishes. They are made available once a report has been made regardless of whether a formal complaint is filed.

Supportive measures implemented on behalf of the reporting party must be non-punitive towards the responding party and cannot place an undue burden on the responding

party. However, emergency removals may be enacted if it is determined that there is an immediate threat to an individual's or community's safety.

Title IX Coordinator

The Title IX Coordinator is designated by the University to coordinate the sexual misconduct process, including the assessment and implementation of supportive measures, providing written notices and documentation to the reporting party and responding party, coordination of investigators and hearing officers, and maintaining case records. The Title IX Coordinator may also file a formal complaint and initiate an investigation on the behalf of the University if there is concern for the welfare of the broader community.

Witnesses

Witnesses are individuals who may have direct experience with or knowledge of the alleged conduct, or have information related to the investigation who a complainant or respondent want the investigator to speak with. Complaints and respondents are encouraged to provide names of potential witnesses to participate in the investigation. Please see Conditional Immunity if you have concerns regarding providing names of witnesses.

SCOPE OF POLICY

The University is committed to fostering a fair and equitable environment for individuals to study, learn and work and a prompt and equitable process for investigation and resolution of complaints covered by this Policy. Per the Department of Education's Title IX Regulations, this Policy applies to students, faculty, staff who are (1) employed by, attending, or affiliated with the University; (2) participating in, or attempting to participate in, any University education program or activity in the United States; or (3) visiting the University's campus or any property owned or leased by the University, or any building owned or controlled by an officially recognized student organization. Per HB3415, the Policy also applies to incidents of prohibited conduct that occur on campus or elsewhere. This Policy also covers acts of Prohibited Conduct committed by third parties, including visitors, guests, vendors, and contractors who are affiliated with the University, or accessing, or attempting to access, a University program or activity; complaints against such third-parties may be handled in accordance with existing contracts and agreements, and third parties may not be eligible for the procedural protections provided within this Policy.

The procedures in this policy are in accordance with the Department of Education's Title IX Regulations, published May 19, 2020, as well as HB3415, effective January 1, 2020. They apply to complaints of prohibited conduct as defined by this Policy.

The University will have the discretion to refer complaints of misconduct not covered by this Policy to any other appropriate office for handling or resolving other complaints of misconduct under any other applicable University policy or code.

CONFIDENTIALITY

Most university personnel are Responsible Employees, meaning they are required to notify the Title IX Coordinator if a student discloses that they have experienced a sexual assault or other sexual misconduct incident. The Title IX Coordinator will then reach out to the reporting party to ensure they know their reporting options and the supportive measures available to them. The student retains the right to decide whether to make a report or to file a formal complaint.

There are two fully confidential resources available on campus: University Health and Counseling Center and University Campus Pastors. Conversations with Title IX Coordinators and/or other university personnel are kept as private as possible, but information about incidents of suspected violations of the sexual misconduct policy must be shared to the extent necessary to provide supportive measures and take any corrective action deemed appropriate by the University.

To make informed choices, all parties should be aware of confidentiality and privacy issues, as well as institutional reporting requirements.

Confidential Reporting

If reporting students wish that details of an incident be kept confidential, they should speak with a George Fox University Health and Counseling Center counselor, and/or one of the University Campus Pastors. Local resources such as crisis centers are also confidential and have no duty to report your information to the University.

Reporting and other University Personnel

All George Fox University employees who are not designated above as confidential are required to inform a lead Title IX coordinator when a student makes a disclosure regarding a sexual misconduct incident. The Title IX coordinator will then reach out to the individual so that they can access supportive measures and be given information regarding their rights and options.

All notices of sexual misconduct are taken seriously. They will also work to respect your privacy to the extent that they are able. However, please note that some disclosures may need to be made in order to provide effective supportive measures or if the University believes there is a threat to the community based on the use of weapons,

violence, pattern, predation, or threatening conduct by the person being accused.

A report is separate from filing a formal complaint. You do not need to file a formal complaint in order to receive supportive measures. However, if you wish for the University to investigate the incident and institute corrective remedies, you should consider filing a formal complaint.

Incidents Involving Minors

Please be aware that institutional duties with respect to minors (under the age of 18) may require reporting sexual misconduct incidents to state agencies and/or local law enforcement. As a result, confidentiality cannot be guaranteed in sexual misconduct incidents involving minors.

CONDITIONAL IMMUNITY & BYSTANDER INTERVENTION

The University wants to eliminate barriers for students who may be hesitant to seek medical or emergency help or report the incident to university officials because they fear being held accountable for policy violations (e.g., drinking alcoholic beverages). To encourage reporting, George Fox pursues a policy of *conditional immunity* by offering students who are accessing help for themselves or others from being held accountable to policy violations related to the particular incident. While there may be no community accountability sanctions for these individuals, the University may provide elements of help, support, and education.

Bystander Intervention is recognizing a potentially harmful situation or interaction and choosing to respond in a way that could positively influence the outcome. Bystander intervention by students and employees can be a critical aspect of enhancing the welfare of their peers. Students and employees are strongly encouraged to contact university personnel, call 911 or seek other professional or medical attention when the health or safety of themselves or others is threatened or appears to be at risk.

PROHIBITED CONDUCT DEFINITIONS

Dating Violence

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of: (1) the length of the relationship, (2) the type of the relationship, and (3) the frequency of interaction between the persons involved in the relationship.

Dating violence is a pattern of assaultive and controlling behaviors that one person uses against another in order to gain or maintain power and control in the relationship. The abuser intentionally behaves in ways that cause fear, degradation and humiliation to control the other person. Forms of abuse can be physical, verbal, sexual, emotional, and psychological.

Examples include, but are not limited to, trying to cut off the victim's relationship with family and friends, humiliating the victim in front of friends, making the victim fearful by using threatening behavior, threatening to find someone else if the dating partner doesn't comply with the abuser's wishes or demands, using or threatening to use physically assaultive behaviors such as hitting, shoving, grabbing, slapping, beating, kicking, and touching or forcing the victim to engage in unwanted sexual activity.

Domestic Violence

Domestic violence (as defined by the Violence Against Women Act) is the use of physical, sexual or emotional abuse or threats to control another person who is a current or former spouse or other intimate partner, such as a boyfriend or girlfriend. It includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Examples of domestic violence include but are not limited to:

- Causing or attempting to cause physical or mental harm to a family or household member
- Placing a family or household member in fear of physical or mental harm
- Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress
- Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested

Retaliation

Federal law and institutional policy prohibits retaliation. It is defined as any adverse or negative action against a person participating in any reporting, investigation or proceeding that is perceived as: intimidating, threatening, coercing, hostile, harassing, retribution, or violence that occurred in connection to the making and follow-up of the

report. This also includes actions against an individual who has: (1) complained about alleged discrimination, harassment or retaliation, (2) participated as a party or witness in an investigation relating to such allegations, or (3) participated as a party or witness in a court proceeding or administrative investigation relating to such allegations.

Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws. Intimidation means to make fearful or to induce fear for the purpose of deterring someone from action. Generally, proof of actual fear is not required in order to establish intimidation. It may be inferred from conduct, words, or circumstances reasonably calculated to produce fear. Any person violating this policy may be subject to appropriate community accountability, up to and including termination if they are an employee, and suspension or dismissal if they are an undergraduate or graduate/DPS student.

Sexual Assault

Sexual assault is defined as any nonconsensual sexual contact or intercourse, whether it is forced or unforced. This includes any non-consensual contact with intimate body parts of an individual, as well as penetration, however slight, with a body part or an object.

Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited, and the behavior does not otherwise constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Non-consensual viewing, videoing, audio-taping or broadcasting sexual activity;
- Engaging in voyeurism, which is the sexual interest in or practice of spying on people engaged in intimate behaviors, such as undressing, sexual activity, or other actions usually considered to be of a private nature;
- Knowingly transmitting an STD or HIV to another person;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually based stalking and/or bullying may also be forms of sexual exploitation.

Sexual Harassment

Title IX defines sexual harassment as (a) unwelcome conduct that a reasonable person would determine is “so severe, pervasive, and objectively offensive” that it effectively denies a person equal access to education or (b) an employee that conditions aid, benefit, or service of the institution on an individual’s participation in unwelcome sexual conduct (quid pro quo).

HB3415 defines sexual harassment as unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal or physical conduct of a sexual nature where such conduct is sufficiently severe or pervasive that it haws the effect, intended or unintended, of unreasonably interfering with an individual’s work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person.

While sexual harassment encompasses a wide range of conduct that may be verbal, visual, or physical in nature, specifically prohibited conduct includes, but is not limited to:

- Promising, directly or indirectly, a student, employee or other person a reward, if the student or employee complies with a sexually oriented request.
- Threatening, directly or indirectly, retaliation against a student, an employee or another person, if the student, employee or another person refuses to comply with a sexually oriented request.
- Denying, directly or indirectly, a student or employee an employment or education related opportunity, if the student or employee refuses to comply with a sexually oriented request.
- Engaging in sexually suggestive conversation.
- Displaying pornographic or sexually oriented materials.
- Engaging in indecent exposure.
- Making sexual or romantic advances toward a student, employee or another person and persisting despite the student’s, employee’s or other person’s rejection of the advances.
- Physical conduct such as assault, touching, or blocking normal movement.
- Retaliation for reporting harassing behavior or stating they are going to report harassing behavior.

More subtle forms of inappropriate behavior such as offensive posters, cartoons, caricatures, comments, and jokes of a sexual nature are prohibited, as they may constitute sexual harassment when they contribute to a hostile or offensive work, academic, or student life environment. A person does not have to be the target of

sexual harassment to be sexually harassed.

Sexual harassment can involve males or females being harassed by members of either sex. Although sexual harassment sometimes involves a person in a greater position of authority as the harasser, individuals in positions of lesser or equal authority also can be found responsible for engaging in prohibited harassment.

Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered separately would not rise to the level of harassment.

Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

Acts of stalking include but are not limited to: electronic or telephone harassment, being followed, receiving unwanted gifts, and other similar forms of intrusive behavior.

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.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Unwelcome or unwanted attention can also be cause for concern. This may include, but is not limited to, repetitive communication and/or behaviors that can make an individual feel uncomfortable to some degree. Though these types of behaviors may not meet the definition of stalking, they are still cause for concern and will be handled as such.

REPORTING PROCESS

The University encourages individuals who believe they are experiencing sexual harassment to report the harassment. Those who are aware or reasonably believe that another person is being sexually harassed, may also make a report through this process, or seek support from confidential resources. Please note that a report is not the same as a Formal Complaint, and therefore a report alone, does not start the formal resolution process (investigation and hearing).

Reports of potential violations of this policy will be kept private to the extent possible for the University to respond to the report, but reports made to those listed below are not confidential.

Reports of potential violations of this Policy may be made to the Title IX Coordinator, a Deputy Title IX Coordinator, and via the online reporting form found on the Title IX Website..

In addition to, or instead of, filling out the online reporting form, individuals may choose to speak with any non-confidential University employee to initiate a report of sexual misconduct, or may submit a written statement by email or regular mail (see information below on filing a Formal Complaint).

Upon being notified of a report the Title IX Coordinator or designee will reach out to the individual who experienced the alleged misconduct to schedule an Intake Interview and will also provide the individual information regarding resources, rights, Supportive Measures and reporting options, and will explain that Supportive Measures are available without filing a Formal Complaint. The Title IX Coordinator will also explain the process for filing a Formal Complaint, which is needed in order to start either the investigation or Informal Resolution processes.

Individuals may also notify the University if they believe someone else may have experienced conduct that would be a violation of this Policy.

Duty to Report Allegations of Sexual Harassment (Responsible Employees).

Any University employee (other than the Confidential Advocates, Student Health and Counseling Centers staff and Chaplains working within the scope of their employment) who observes sexual harassment or who knows of, or is informed of alleged sexual harassment, must promptly notify the Title IX Coordinator or designee of the allegation.

University employees should not attempt to resolve a complaint of sexual harassment without assistance from the Title IX Coordinator. Employees must also comply with their obligations to report any child abuse or neglect consistent with state law, as well as Campus Security Authority reporting obligations.

Timely Warning.

If a report of sexual misconduct presents a serious and continuing threat to the community, George Fox University may issue a campus-wide timely warning to protect the health and safety of community members. The timely warning will not include any identifying information about the person who experienced the unwanted behavior as defined by the Policy.

Timeline for Reporting.

The University does not limit the timeframe for reporting an incident regardless of when the incident occurred. However, individuals are encouraged to report as soon as practical, as memories may fade and evidence may be lost over time.

Retaliation Prohibited.

Retaliation is prohibited by University policy. The University will not tolerate any materially adverse action against a person who reports, complains about, or who otherwise participates in good faith in any manner related to this policy. Retaliation includes but is not limited to, confirmed or implied behaviors or actions (including electronic or on-line activity) which intimidate, threaten, or harass, or result in other adverse actions threatened or taken. Retaliation does not include petty slights or trivial annoyances.

An individual reporting sexual misconduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not substantiated based on the available evidence. Retaliation does not include good faith actions pursued in response to a report of prohibited conduct. Any person who believes they have experienced retaliation under this policy should contact the Title IX Coordinator who forward any complaint of retaliation to the appropriate office for handling. Retaliation may subject the person who retaliates to disciplinary action up to and including expulsion or termination.

It is critical that a person responding to a claim of harassment or discrimination (the Respondent), and those who may be supportive of the Respondent, recognize that many behaviors may be perceived as retaliatory. When in doubt about whether a certain action, communication, or behavior might be viewed as retaliatory, please consult with the Title IX Coordinator.

No Conflict of Interest or Bias.

Any individual carrying out this Policy will be free from any actual conflict of interest or demonstrated bias that would impact the handling of this matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Associate Vice President for Inclusive Excellence who will designate the role of Acting Title IX Coordinator for purposes of carrying out the handling and finalization of

the matter at issue. Should any investigator, Hearing Administrator or Appeals Officer have a conflict of interest, the individual is to notify the Title IX Coordinator upon discovery of the conflict.

Provision of False Information.

It is a violation of University policies for anyone to intentionally provide false information to the University. Any employee or student who is found to have done so as part of this process may be subject to appropriate disciplinary or corrective action.

OUTREACH AND INITIAL ASSESSMENT

Outreach and Intake Interview

Upon receipt of information or a report alleging a potential violation of this Policy, the Title IX Coordinator or designee will reach out to the individual who experienced the misconduct to schedule an Intake or Informational Interview and provide a copy of this policy and the following information:

- Availability of supportive measures with or without filing a Formal Complaint;
- How to file a Formal Complaint;
- Right to notify law enforcement and the right not to notify law enforcement, their right to decline to do so, and, when applicable, information about seeking a personal protection order from the local courts;
- Importance of preserving evidence;
- Resources for counseling, health care, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other available services; and,
- Right to an advisor of their choice.

That individual may choose to receive Supportive Measures only and not proceed with the filing of a Formal Complaint. They may also request an Informal Resolution or an Investigation and Hearing. For any resolution other than supportive measures, a Formal Complaint is required.

The Title IX Coordinator or designee will discuss the individual's rights and options, and will also assess for, and provide, appropriate supportive measures, which are available with, or without, the filing of a Formal Complaint. If a Formal Complaint has not already been filed, the Title IX Coordinator will explain to the individual the process for filing a Formal Complaint.

For those who wish to proceed with any resolution process, the Title IX Coordinator will assess the facts as presented to determine whether the information provided suggests a potential violation of this Policy. If the report does not meet the required definitions of this Policy, then the Title IX Coordinator will not initiate the Formal Process

Student Emergency Removal Provisions/Interim Safety Measures

If at any time the University determines that the conduct, as alleged, poses a risk of immediate physical harm arising from the sexual harassment, to one or more members of the University community or to the University's educational environment, the University may instruct that a Respondent be removed or placed on leave, on an interim basis, from specific programs or activities.

Any such risk assessment will be made on a case-by-case basis, based on an individualized safety and risk analysis including consideration of applicable disability procedures, less restrictive alternatives and supportive measures, and will be determined by the Title IX Coordinator in consultation with appropriate University officials.

The decision to do so will be provided to the Respondent in writing.

Opportunity to Respond

Students should contact the Dean of Students within 3 days of the interim suspension, who will explain the University's process for challenging the emergency removal.

Employee Administrative Leave: The University will have the authority to place any employee Respondent on an administrative leave of absence pending the outcome of an investigation and hearing.

Employees may contact the Vice President for People and Culture if they wish to discuss the emergency removal.

The decision to place any Respondent on an interim suspension or administrative leave will not be considered as evidence that any determination has been made regarding potential responsibility for violating this Policy.

RESOLUTION METHODS

After a Formal Complaint is filed, the University will issue Notice to the Complainant and the Respondent which will include information on the below methods of resolution. The University may then determine one of these three methods to resolve a potential violation of this policy:

1. informal resolution;
2. investigation and hearing; or
3. dismissal.

1. Informal Resolution

The Title IX Coordinator may offer to the parties the option of Informal Resolution at any time during the Resolution Process. Either party may also request, in writing, to proceed with an Informal Resolution. Participation in the Informal Resolution process is voluntary for both Complainant and Respondent. Both parties and the Title IX Coordinator must agree to the use of Informal Resolution to resolve the complaint. If an Informal Resolution option is preferred, the Title IX Coordinator will assess whether the complaint is suitable for Informal Resolution and will then take steps to determine if the other party is also willing to engage in Informal Resolution. Both parties must agree, in writing, to an Informal Resolution.

The Title IX Coordinator may determine that Informal Resolution is not appropriate, for example, where other formal action may be reasonably necessary to prevent continuing or future Prohibited Conduct, where there is a threat to the safety of the complainant or campus community, or where multiple reports have occurred against the same respondent.

Note: Allegations that an employee has engaged in Prohibited Conduct toward a student will not be handled through the Informal Resolution process, and instead be resolved only through the Investigation and Hearing process.

When either party requests an Informal Resolution, the Title IX Coordinator will provide the Complainant and Respondent written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Informal Resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations;
- The right of either party to end the Informal Resolution process at any time and instead choose to pursue a formal investigation process;
- Any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared;
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the formal investigation and adjudication processes, there is a determination of responsibility;
- An explanation that each party may be accompanied by an Advisor and a support person of their choice, who may be a parent, friend, or attorney;
- The date and time of the initial meeting with the Title IX Coordinator, with a minimum of 2 days' notice;

- Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant.

If either party does not voluntarily agree in writing to pursue an Informal Resolution, or if the Complainant, Respondent, or Title IX Coordinator, at any time, determines that Informal Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the Complainant and Respondent in writing that the complaint will proceed through the Investigation and Hearing Process.

For employees (i.e., an employee allegation against another employee), the terms of Informal Resolution may lead to non-disciplinary outcomes such as additional training for a unit or area, agreements for how to continue working together, ongoing no-contact directives or meetings with the Respondent to discuss the conduct at issue.

Once the final terms of an Informal Resolution have been agreed upon by both parties, in writing, the matter will be considered closed, and no further action will be taken. Voluntary agreements under the Informal Resolution process are not subject to appeal.

The Informal Resolution process is generally expected to be completed within thirty (30) days and may be extended for good cause by the Title IX Coordinator. Both parties will be notified, in writing, of any extension and the reason for the extension.

Records of any Informal Resolution will be maintained and may be shared with other offices as appropriate.

2. Investigation and Hearing Process

The University expects that all individuals who participate in the investigation process do so truthfully and that all who have a responsibility for carrying out one or more aspects of the investigation and hearing process do so fairly and without prejudice or bias.

Prohibition on False Evidence Provided During Process

Each party and every witness is expected to provide truthful information to the investigator, Hearing Administrator, and the Appeals Officer. Providing intentionally false or misleading information may result in charges for possible violations of the Code of Conduct or University policy.

Notice of Investigation, and Investigation Process

Within a reasonable period of time from the filing of a Formal Complaint and prior to the start of an investigation, the Respondent and Complainant will be provided, in writing, with a Notice of Investigation. Such notice will include:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The identities of the Complainant and Respondent;
- The date and location (if known) of the conduct that is alleged to have occurred;
- A copy of this Policy, which contains the process that will be followed, including an explanation that each party will have the right to inspect and review all evidence prior to the completion of the investigation;
- A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility;
- An explanation that each party may be accompanied by an advisor of their choice, who may be a parent, friend, attorney;
- The date and time of the initial interview with the investigator, with a minimum of five (5) days notice;
- Information regarding amnesty granted during this process;
- The name and contact information for the assigned investigator;
- Information regarding supportive measures.
- Should additional allegations be brought forward, a revised Notice of Investigation will be provided to both parties, in writing.

If an investigation is initiated, the university will appoint a trained Investigator(s). The Investigator(s) may be an employee or third-party hired by George Fox University. Any Investigator(s) chosen to conduct an Investigation must be impartial and free from any conflict of interest.

Challenging for Conflict of Interest or Bias

After a Formal Notice of Investigation is issued to Complainant and Respondent, each party may object to the Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest. Both parties will have three (3) days from the date of the Notice of Investigation to object to the selection of the investigator or the Title IX Coordinator on those grounds. Objections to the Title IX Coordinator will be made, in writing, to the Associate Vice President for Inclusive Excellence. Objections to the appointment of the investigator will be made, in writing, to the Title IX Coordinator. If the objection is substantiated as to either the Title IX Coordinator or the Investigator, that individual will be replaced.

A conflict of interest may include, for example, situations where an assigned official is a party's family member, close friend, current or former faculty member, advisor or has

other similar relationships with a party. The fact that an individual is the same or different gender, race, etc., of a party or individual involved in the process, or regarding someone's professional experience (e.g. former prosecutor or defense attorney) is not considered a conflict or bias and requests for changes in staffing on these bases will not be considered.

Evidentiary Standard

The preponderance of the evidence standard is used in determining whether or not a Respondent charged with an allegation of sexual misconduct is responsible for a violation. The Respondent is presumed not responsible for any violation unless responsibility is established by a conscientious and rational judgment on the whole record indicating it is more likely than not the alleged behavior occurred.

Timeline

The University strives to complete the investigation process, up to evidence review, within 90 days, which may be extended for good cause by the Title IX Coordinator. Both parties will be notified, in writing, of any extension granted, the reason for the extension and the new anticipated date of conclusion of the investigation.

Interviews

The Investigator will interview all parties and relevant witnesses and gather relevant documentary evidence provided by the parties and any identified witnesses. Interviews may be conducted in person, or via video conference. The investigator will prepare a summary of each interview.

Each party will be provided with an opportunity to offer relevant witnesses and evidence. Information or evidence that is not provided to the investigator will not generally be allowed during the hearing, unless it can be clearly demonstrated that such information was not reasonably known to or available to the parties at the time of the investigation.

Site Visit(s): The Investigator(s) may visit relevant sites or locations and record observations through written, photographic, or other means.

Expert Consultation(s): The Investigator(s) may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under Investigation.

Coordination with Law Enforcement: The Investigator will contact any law enforcement agency that is conducting its own investigation to inform that agency that a university investigation is also in progress; to ascertain the status of the criminal investigation; or to determine the extent to which any evidence collected by law enforcement may be available to the university in its investigation.

Evidence Review and Investigation Report

Evidence Review: At the conclusion of all interviews and fact gathering, and when the evidence has been gathered, the investigator will provide each party, and their Advisor, the opportunity to review all of the evidence gathered that is directly related to the allegation(s). This will include both incubatory and exculpatory evidence, meaning evidence both supporting or not supporting the allegations at issue.

Given the sensitive nature of the information provided, the information will be provided in a secure manner (for example, by providing digital copies of the materials through a protected, “read-only” web portal or utilizing other safeguards). Neither the Complainant nor the Respondent (nor their Advisors) may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this Policy may be subject to discipline. Any Advisor who fails to abide by this Policy may be subject to discipline and/or may be excluded from further participation in the process.

Response to Evidence: Each party will have ten (10) days in which to respond to the evidence, in writing, and submit it to the investigator. The investigator will incorporate any response provided by the parties into the Final Investigation Report. Along with their response to the evidence, each party may also submit a written request for additional investigation, such as a request for a follow-up interview(s) with existing witnesses to clarify or provide additional information, including offering questions to the investigator to pose to witnesses or to the other party. This response may include written, relevant questions that a party would like the investigator to ask of any party or witness. If any of the questions posed will be excluded as not relevant, or not likely to lead to relevant information, the investigator will explain to the party who proposed the questions any decision to exclude a question as not relevant and those questions will still be included in the final report as an appendix.

Additional Submissions After Evidence Review: Upon receipt of each party's response to the evidence reviewed, the investigator will determine if any additional investigation is needed. In addition, either party may offer new witnesses or other new evidence. This is the final opportunity for parties to offer evidence. The investigator will consider the responses provided, may pose questions to parties or witnesses as appropriate, and may interview new relevant witnesses, or accept new, relevant, evidence.

If new relevant evidence is provided by either party, or gathered by the investigator, the newly-gathered evidence (including answers to clarifying questions) will be made available for review by each party. Each party will have ten (10) days in which to respond to the new evidence. Each may provide a response in writing to the investigator, and the investigator will incorporate any written response provided by the parties into the Final Investigation Report.

Any evidence to be considered by the Hearing Administrator must be provided to the Investigator. Information that was not provided to the Investigator will not be allowed during the hearing itself, unless it can be clearly demonstrated that such information was not reasonably known to, or available to, the parties at the time of the investigation. Should new evidence be presented at the hearing, the Hearing Administrator will have the authority to delay the hearing and send the matter back for further, limited investigation.

Exclusion of Questions Regarding Complainant's Past Sexual Behavior, or Predisposition

Questions and evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted, unless such questions and evidence about the Complainant's prior sexual behavior are offered: (a) to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or (b) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Final Investigation Report

The investigator will prepare a written report summarizing all of the relevant evidence gathered and all investigative steps taken to date. The investigator will not make any findings regarding credibility or determination of policy violations for any Title IX Policy

or other sexual misconduct allegations. The investigator may suggest preliminary factual findings based on relevant evidence.

The investigator will attach to the Final Investigation Report any responses received in writing from the parties, and will include as an attachment all relevant evidence gathered during the investigation, as well as all interview transcripts and interview summaries.

Conclusion of Investigation, Threshold Review of Report

Threshold Review of the Report

Prior to issuing the Final Investigative Report to the Parties, the Title IX Coordinator, in consultation with the Investigator, will review the draft Final Investigation Report and make a threshold determination either to dismiss the Formal Complaint or certain allegations within the Formal Complaint, or to proceed to adjudication. Dismissal is appropriate only when required (as described in the Dismissal Section below). A dismissal decision under this provision may not be based on an assessment of the credibility of a Party or Witness and may be appealed within five (5) days , using one of the permissible grounds for appeal.

The Hearing phase of the Formal Process begins when the Title IX Coordinator or designee sends the Notice of Administrative Hearing and concludes when the Hearing Administrator issues a written Final Determination. Specific deadlines and dates calculated according to these procedures will be outlined in communications from the University.

Post-Investigation Resolution Options

Within five (5) days of receiving the Final Investigation Report, the Parties will receive a Notice of Resolution Options from the Title IX Coordinator. The parties will then determine their preferred manner of resolution.

Informal Resolution

Within five (5) days of the Notice of Resolution Options, the parties may choose to not proceed to a Live Hearing, and instead proceed with an Informal Resolution, as described above . Both parties must voluntarily agree in writing to the Informal

Resolution, and if so, the Formal Complaint will be resolved by the Informal Resolution agreement. An Informal Resolution agreement is final and not subject to appeal.

Unless both parties agree to Informal Resolution, the Formal Complaint will proceed to an Administrative Hearing.

Administrative Hearing

If the alleged violation(s) fall within the jurisdiction of Title IX, the case will be resolved with a live administrative hearing. If the alleged violation(s) fall within the jurisdiction of HB3415 or university policy, the case will be resolved with a closed administrative hearing.

Each party will be provided with a Notice of Hearing, which will include information regarding the date of the hearing, the names of the assigned Hearing Administrator(s), and any deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Administrator(s) to ensure relevance. The hearing will be scheduled no less than ten (10) days from the date of the Notice of Hearing.

Within three (3) days of receipt of the Notice of Hearing, either party may object to a Hearing Administrator(s) on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will remove the Hearing Administrator(s) and appoint another.

Live Administrative Hearing Procedures and Hearing, Final Determination

Hearing Advisor

Each party is entitled to one Advisor at the hearing which will be referred to as the Hearing Advisor. The role of the Hearing Advisor is to ask questions of the other party and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party will be permitted to ask questions of the other party, or of a witness. A Hearing Advisor of the University's choosing will be provided for any party who does not have a Hearing Advisor. If the party does not appear, the Hearing Advisor will still appear to ask questions of the other party and any witnesses.

There will be a pre-hearing meeting with each party and Hearing Advisor at which time, should the Complainant or Respondent not have a Hearing Advisor, one will be assigned.

Live Administrative Hearing

Hearings will be scheduled as far in advance as possible. The Hearing Administrator will provide possible hearing dates to the Parties and their Advisors; one of those dates must be chosen. Exceptions may be granted for good cause.

Pre-Hearing Conference: There will be a pre-hearing meeting with each party at which time, should the Complainant or Respondent not have an Advisor, one shall be assigned for the purpose of cross-examination at the Hearing. At the meeting, each party may submit to the Decision-maker a preliminary list of witnesses, and questions they wish to pose to the other party, or to a witness.

General Structure of the Hearing: Hearings may be conducted in person or via videoconferencing. If by videoconferencing, prior to the hearing, the Hearing Administrator will have received instruction regarding the operation of any audio-visual equipment for the hearing. The Hearing Administrator will also provide the participants instructions on how to participate in the video-conference hearing. No Complainant or Respondent or witness will be compelled to participate in the hearing. However, the Title IX Coordinator may choose to continue with the hearing in the absence of the Complainant, Respondent or any witness. The general structure of the Hearing will be as follows:

- The Hearing Administrator provides information about the process and addresses any issues that need to be resolved prior to the Hearing (such as evidentiary questions or requests for exceptions to the rules that may be asked by the parties).
- The Hearing Administrator will ask questions of the Complainant.
- The Respondent's Advisor may ask relevant follow-up questions of the Complainant.
- The Hearing Administrator will ask questions of the Respondent.
- The Complainant's Advisor may ask relevant follow-up questions of the Respondent.
- This same process is then repeated for each witness, with an opportunity for each party's Hearing Advisor to ask relevant follow-up questions of (cross-examine) the witnesses.

- The Hearing Administrator may follow up with further questioning for either parties or any witness based on any statements at the Hearing.
- The Hearing Administrator will ensure that each party is provided with equitable opportunities to respond and question during the Hearing.

Rules of the Hearing: The Advisors and Parties will be provided with additional rules of decorum for the Hearing at the Pre-Hearing Conference. In addition to the rules that specifically apply during the Hearing listed below, parties and advisors will be expected to continue to adhere to all other expectations outlined in these procedures.

Recordings: Each hearing will be recorded by the Hearing Administrator and this recording will be considered the only official recording of the hearing. No other individual is permitted to record while the hearing is taking place. The recording is the property of the University but will be made available for listening by contacting the Title IX Coordinator.

Witnesses: The Complainant, Respondent, and the Hearing Administrator all have the right to call witnesses. No Party will be permitted to call as a witness anyone who was not interviewed by the investigator as part of the University's investigation, unless good cause can be demonstrated. Each Party will submit to the Hearing Administrator the names of witnesses they would like to call no less than five (5) days in advance.

Question Submission: The Hearing Administrator will strongly encourage Parties to submit to them a preliminary list of questions for the other Party and witnesses three days prior to the hearing. This is not required, but it leads to far greater efficiency and a smoother hearing experience. If the Hearing Administrator determines that any submitted questions are not relevant, the Hearing Administrator will explain the reason for the exclusion of the question at the hearing. Each Party, through their Advisor, will also be permitted to ask additional questions at the hearing. In the event that a Party does not appear for the Hearing, the Advisor for that Party will appear and question the other Party, and witnesses.

Questioning Parties and Witnesses: Each party's Advisor may ask the other Party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility. Such cross-examination will be conducted after the Hearing Administrator asks introductory questions of the Witness. The Parties themselves may not ask questions of the other Party or Witness.

Before a Party or Witness answers a cross-examination question, the Hearing Administrator must determine whether the question is relevant and, if the Hearing

Administrator refuses to allow a given question, they must explain the decision to the Parties. Parties and witnesses will only answer questions allowed by the Hearing Administrator. Questions may be limited by the Hearing Administrator only if they are irrelevant, including if they are repetitive, harassing or abusive. Questions proposed by the Parties but not asked will become part of the file available during an appeal.

Time for Hearing: The Hearing Administrator will have the authority to limit the time allotted to any phase of the hearing, or to limit the time allotted to the full hearing. Any such limitation will be communicated to the parties no later than three (3) days before the hearing, and exceptions can be made for good cause.

Evidence at the Hearing: The Hearing Administrator will determine which evidence is admitted, including information from witnesses and documentary evidence. Evidence is relevant if it has any tendency to make a fact that is of consequence more or less probable than it would be without the evidence.

Non-Title IX Allegations: Where there are non-Title IX allegations addressed at the same Hearing, the Hearing Administrator may consider all information they deem relevant for the non-Title IX allegations, however, in all other regards, when Title IX and non-Title IX allegations are addressed together at a Hearing, the procedures applicable to Title IX allegations will be used for all allegations.

Further Investigation: If the Hearing Administrator determines that unresolved issues exist that would be clarified by the presentation of additional information, they may, at their discretion, suspend the Administrative Hearing in order to obtain such information. The Hearing Administrator may ask the Investigator to conduct further investigation. The Hearing Administrator will reconvene the Hearing in a timely manner.

Non-Participation: The Hearing Administrator will not draw any inference regarding responsibility based solely on a party's non-appearance at the hearing or refusal to answer questions.

Final Determination

Following the hearing, the Hearing Administrator will then prepare a Final Determination. To the extent credibility determination needs to be made, it will not be based on a person's status as Complainant, Respondent, or witness.

The Hearing Administrator's Final Determination will include:

- The allegations;
- Description of all procedural steps;
- Findings of fact;
- Conclusion of application of facts to the Policy; and
- Rationale for each allegation.
- Determination(s)
- Sanction and rationale (if responsible finding is made)

The Hearing Administrator will then provide each party with the Final Determination, including the determination of the appropriate sanction if applicable, will inform the Complainant of any appropriate remedies, and will inform both parties of the procedure for appeals.

Closed Administrative Hearing

If the alleged violation(s) fall within the jurisdiction of prohibited conduct under HB3415 or university policy, a closed administrative hearing will be held to resolve the case. During the closed administrative hearing, a team of two hearing administrators will meet to review the final investigation report and evidence file and make a determination of responsibility in the case using the preponderance of evidence standard. If a responsible finding is made in the case, the hearing administrators will also determine any appropriate sanctions.

The Hearing Administrator will then provide each party with the Final Determination, including the determination of the appropriate sanction if applicable, will inform the Complainant of any appropriate remedies, and will inform both parties of the procedure for appeals.

3. Title IX Dismissal

The University also has the discretion to dismiss a Formal Complaint, and in some cases an obligation to dismiss, as follows:

Mandatory Dismissal

At any time prior to the commencement of a hearing, any case proceeding under this policy will be dismissed if it is determined that the conduct at issue does not meet the definitional or jurisdictional requirements of this policy. If the alleged conduct would, if

true, support a finding that another University policy or code has been violated, the University may, in its sole authority, transfer the case for further handling under the appropriate policy or code. The University may use evidence already gathered during the Title IX process for the further handling of the complaint. Upon dismissal, both parties will be notified in writing of the decision and the rationale for the decision. The decision to dismiss is subject to appeal. Both parties will be notified in writing of any determination made following the appeal.

Discretionary Dismissal

At any time during an investigation or prior to the commencement of a hearing, any case when: a) Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within the Formal Complaint; b) the Respondent is no longer enrolled or employed at the University; or c) circumstances prevent the University from gathering evidence sufficient to reach a determination. If the alleged conduct would, if true, support a finding that another University policy or code has been violated, the University may, in its sole authority, transfer the case for further handling under the appropriate policy or code. The University may use evidence already gathered during the Title IX process for the further handling of the complaint. Upon dismissal, both parties will be notified in writing of the decision and the rationale for the decision. The decision to dismiss is subject to appeal. Both parties will be notified in writing of any determination made following the appeal.

A case that is dismissed under Title IX but falls within the jurisdiction of prohibited conduct under HB3415 will be resolved using this Policy.

Sanctions and Remedies

Upon conclusion of the hearing process, when there is a finding of responsibility, the Complainant will be offered such remedies designed to restore or preserve equal access to the institution's education program or activity. The Title IX Coordinator is responsible for ensuring overall implementation of remedies.

Sanctions for students will follow the sanctioning process outlined below. Sanctions will be determined on a case-by-case basis, intended to preserve equal access for the Complainant and in the best interest of the University's educational environment.

Discipline for employees will follow the relevant university policies and procedures for employees.

When a student is found in violation of this Policy, a sanction appropriate to the policy violation(s) may be assigned. Sanctions are designed to help prevent subsequent violations, to guide students in future decision making, and where appropriate, remedy any harm to the community.

When considering the sanctions to be imposed, a range of factors may be considered, including:

- nature, context, and severity of an incident,
- developmental needs of the student,
- level of accountability and responsibility taken by the student,
- level of cooperation from the student,
- need to stop the misconduct and prevent its recurrence,
- need to remedy and address the impact or effects of the conduct on others,
- disciplinary history of the student,
- best interests of the University community, and
- any other aggravating, mitigating, or relevant factors.

The written final determination received by the respondent will also set forth the sanction(s) imposed. The written decision will include information regarding the appeal process and the deadline for filing an appeal.

Compliance with all assigned sanctions within the time allocated is mandatory. Failure to complete or comply with any assigned sanction, or failure to meet an assigned deadline (if applicable), may result in further disciplinary action, and/or the placement of a hold on a student's University account. If a student withdraws or takes a leave prior to the completion of their sanctions, they must complete all assigned sanctions before they will be able to re-enroll. One or more of the following sanctions may be imposed if a student is found responsible for a violation of this Policy.

Educational Intervention

A student may be required to meet with another individual or group. The number of meetings will be determined by the party to which the student has been referred. Should a student need an outside assessment, the student is solely responsible to pay for all required assessments and any resulting recommended treatment.

Conduct Probation

Conduct Probation may be assigned for repeated misconduct or for more serious misconduct. Students who receive a sanction of conduct probation and have

subsequent policy violations may face more severe sanctions, up to and including suspension or dismissal from the University. Periodic probationary meetings may also be required.

Suspension from Housing

A relocation or temporary removal from University housing, given when serious and/or repeated misconduct in the community warrants separation of the student from that community. Suspension from University housing prohibits the student from residing in or visiting specified residence halls and adjacent grounds for a stated period of time. During the period of removal, the student is not eligible for any housing refund.

Dismissal from Housing

Permanent dismissal from University housing, which prohibits the student from living in or being a guest in any University housing. In the case of dismissal from housing, the student is not eligible for any housing refund for the remainder of the term during which the dismissal takes effect.

University Suspension

A temporary suspension from the University (noted in the student's education records), which prohibits the student from attending the University (at any campus or learning site, or online) or any University events and from entering or being present without permission on any property of the University. Reinstatement will not be granted until all assigned sanctions are completed and any other conditions met. A student who is suspended from the University will still be responsible for certain tuition and housing charges, subject to any applicable refund policy.

Interim Suspensions

An immediate, temporary suspension that remains in effect until the resolution process has been completed. An interim suspension can be a suspension from the University, housing, a classroom, other University room, space or premises, an academic course, lab, practicum, and/or a suspension of privileges. Interim suspensions are used when the University perceives that because of the nature of the alleged violation or other factors, an interim suspension is advisable to help protect an individual or the University community, property or the normal operations of the University until the resolution process has been completed.

University Dismissal

Permanent dismissal from the University (noted in the student's education records), which prohibits the student from attending the University (at any campus or learning site, or online) or any University events and from entering or being present without

permission on any property of the University. A student who is dismissed from the University will still be responsible for certain tuition and housing charges, subject to any applicable refund policy.

Appeals

A written request for an appeal may be filed by either party:

- within five (5) days of a decision that the investigation does not meet requirements of a Formal Complaint; OR
- within five (5) days of receipt of the Final Determination; OR
- within five (5) days of Dismissal

Appeals will be sent to the Title IX Coordinator, who will then send the appeal to the designated Appeals Officer. When an appeal is filed, the other Party will be notified, in writing, within one day, and will then have five (5) days to respond to the appeal. Any Party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.

The Appeals Officer will not have any actual conflict of interest or bias. Within three (3) days of assigning the Appeals Officer, either party may object to the Appeals Officer on the basis of an actual bias or conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will remove the Appeals Officer and appoint another.

While an appeal process is pending, a student or employee found responsible for violating this Policy, or any other University Policy, must comply with the sanctions previously imposed and deemed necessary. A party may request a stay of the sanction during the appeal process, and should direct that request to the Title IX Coordinator.

If either party submits an appeal request, that appeal request will be shared with the other party who will then have five (5) days to submit a response if they so choose. Appeal requests and responses to appeal requests will be shared with the Complainant and the Respondent.

The hearing record, which includes all hearing documents, the Investigation Report, the hearing recording (if applicable), and appeal materials from both parties, will be submitted by the Title IX Coordinator to the Appeals Officer for review.

The appeal process is a closed process, limited to the review of the hearing record and appeal materials. There are no additional meetings with the involved parties unless there are exceptional circumstances as determined by the Title IX Coordinator.

Appeals May be Filed Only on the Following Grounds:

- *Procedural Error*: A procedural error occurred that significantly impacted the outcome of the investigation or hearing. A description of the error and its impact on the outcome of the case must be included in the written appeal; or
- *New Evidence*: New evidence or information has arisen that was not available or known to the party during the investigation or hearing, and that could significantly impact the findings. Information that was known to the Appellant during the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal; or
- *Actual Conflict of Interest or Demonstrated Bias*: The Title IX Coordinator, investigator, or decision-maker had an actual conflict of interest or demonstrated bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter; or
- *Disproportionate to the Violation or previous disciplinary measures*. That the sanction or discipline should be either increased or decreased in light of all the information available including prior sanctions or discipline assigned for comparable violations.

If a party appeals the discipline or sanction, both parties may provide to the Appeals Officer a mitigation or impact statement to explain the appeal of the discipline or sanction. Anything submitted to the Appeals Officer will be shared with the other party.

The written appeals decision will be sent simultaneously to both Parties and will describe the result of the appeal including the rationale.

REVISIONS

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. George Fox University reserves the right to update this document as necessary and those updates are enforced immediately upon being posted online. The Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with the appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this

policy and procedure. Procedures in effect at the time of the resolution will apply to the resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be constructed to comply with government regulations in their most recent form.