

NON-DISCRIMINATION AND NON-HARASSMENT POLICY

PLEASE USE THIS POLICY FOR INCIDENTS TAKING PLACE ON OR AFTER
AUGUST 1, 2024

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INTRODUCTION

Elmhurst University (the “University”) is committed to providing an educational and employment environment that is free from discrimination or harassment based on race, including, but not limited to, hair texture and protective hairstyles (such as braids, locks, and twists), color, caste, national origin, religion, sex, gender identity, sexual orientation, age, disability, citizenship, arrest record status, political affiliation, veteran status, pregnancy, marital status, or other protected status as those terms are defined by applicable federal, state, and local law. The University values and upholds the equal dignity of all members of its community. To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting fairness and equity in all aspects of its education program, work environment, and related activities, the University has developed the following policies and procedures that provide for prompt, fair, and impartial resolution of allegations of discrimination or harassment based on protected characteristics or related retaliation.

The University complies with [Title IX of the Education Amendments of 1972](#) (“Title IX”), a federal law that provides: *No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance.* Title IX prohibits sex discrimination in all University programs and activities, including, but not limited to, admissions, recruiting, financial aid, academic programs, student services, counseling and guidance, discipline, class assignment, grading, recreation, athletics, housing, and employment. On April 19, 2024, the U.S. Department of Education released its [Title IX Final Rule](#), which established new requirements starting on August 1, 2024 (“2024 Title IX regulations”). Elmhurst University has adopted the new requirements set forth in the 2024 Title IX regulations in this Policy.

1. DEFINITION OF TERMS

The following section contains definitions of relevant terms included in this Policy. Questions about the definitions may be directed to the Title IX Coordinator.

Advisor: A person chosen by a party or appointed by the University to accompany the party to meetings related to a resolution process, to advise the party on that process, and to support the party at any live hearing.

Appeal Officer. The person who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and directs responsive action(s), accordingly.

Business Day: Monday through Friday of a given week while the University is in normal operation.

Complainant: A student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, or retaliation under the Policy; or an individual other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, or retaliation under this Policy and who was participating or attempting to participate in the University’s education program or activity at the time of the alleged discrimination, harassment, or retaliation.

Complaint: An oral or a written request to the University that can be objectively understood as a request to investigate and make a determination about alleged discrimination, harassment and/or retaliation and take actions as deemed appropriate.

Confidential Advisor: A person who is employed or contracted by the University to provide emergency and ongoing support to student survivors of sexual violence (sexual assault, dating and domestic violence, and stalking) with the training, and responsibilities described in Section 9.d. of this Policy. Confidential Advisors have received at least 40 hours of training and a minimum of 6 hours of ongoing annual training on sexual violence and work solely on the Complainant's behalf to provide empathetic guidance and educate them on their various rights and options.

Confidentiality: Exists in the context of laws that protect information shared within certain relationships, including those who provide services related to medical and clinical care, mental health providers, and Confidential Advisors.

Confidential Resource: Care provider staff who work in Student Health Services and Counseling Services, all of whom must keep reports of sex discrimination confidential per patient privacy rights. While these staff members are not mandatory reporters, they are permitted to help students file a sex discrimination report if requested by the student.

Decision-Maker: A person who supervises a live hearing and has decision-making and sanctioning authority within Process A. Also referred to as the Hearing Officer.

Discrimination: Discrimination is different treatment with respect to an individual's employment or participation in an education program or activity because of, in whole or in part, the individual's actual or perceived protected characteristic. Discrimination entails treating someone differently because of any of the following: their race, including, but not limited to, hair texture and protective hairstyles (such as braids, locks, and twists), color, caste, national origin, religion, sex, gender identity, sexual orientation, age, disability, citizenship, arrest record status, political affiliation, veteran status, pregnancy, marital status, or other protected status as those terms are defined by applicable federal, state, and local law. Discrimination can take two forms, which are disparate treatment discrimination and disparate impact discrimination.

Disparate Treatment Discrimination: Any intentional differential treatment of a person or persons as compared to others that is based on an individual's actual or perceived protected characteristics and that excludes an individual from participation in, denies the individual benefits of, or otherwise adversely affects a term or condition of an individual's participation in a University program or activity.

Disparate Impact Discrimination: Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person that excludes an individual from participation in, denies the individual benefits of, or otherwise adversely affects a term or condition of an individual's participation in a University program or activity.

Discriminatory Harassment: Unwelcome conduct on the basis of actual or perceived protected characteristic(s), that based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from a University program or activity.

Education Program or Activity: Locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the sex discrimination occurs.

Formal Grievance Process: The processes as set out in Process A or Process B.

Formal Grievance Process Pool: Deputy Coordinators, Investigators, Decision-Makers, Appellate Officers, and University-appointed Advisors who may perform any or all of these roles (though typically not at their same time or with respect to the same case).

Informal Resolution: A grievance process in place of or implemented before an investigation under Process A or Process B in which supportive measures, alternate resolution mechanisms, or other informal means can be used to resolve a complaint.

Investigator: A person charged by the University to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, compile this information into an Investigative Report, and make determinations of responsibility under Process B only.

Harassment: Unwelcome conduct on the basis of actual or perceived protected characteristic(s), that is based on the totality of the circumstances, is subjectively and objectively offensive, and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity. Includes unwelcome conduct, whether verbal, physical, written, digital, or graphic, that is based on any protected status outlined above.

Party/Parties: The Complainant or Respondent, or the Complainant and Respondent collectively.

Privacy: Means that information related to a Complaint will be shared with a limited number of University employees who need to know in order to assist in providing supportive measures or evaluating, investigating, or resolving the Complaint.

Process A: A method of formal resolution designated by the University to address conduct related to sex discrimination and retaliation and which complies with the requirements of the 2024 Title IX regulations. This procedure is limited to all allegations of sex-based harassment involving a student as a party, regardless of the status of the other party.

Process B: A method of formal resolution designated by the University to address conduct related to sex discrimination and retaliation that does not meet the standards required for Process A or to address conduct that is related to forms of discrimination or harassment not based on sex.

Report: Notice, either written or oral, provided to the Title IX Coordinator of an alleged incident of sex discrimination or retaliation. Any person, regardless of whether or not the person reporting the alleged incident is the person alleged to be the victim in the incident, may report sex discrimination

or retaliation. Reports may be made at any time, including during non-business hours, in person, by mail to the office address listed for the Title IX Coordinator, by telephone, by email, or any other means that result in the Title IX Coordinator receiving a person's written or verbal report. Individuals may file a report online alleging sex discrimination or retaliation here (insert link). A report is distinguished from a Complaint as defined above.

Respondent: An individual who is reported to be the perpetrator of conduct that could constitute harassment, discrimination, sex discrimination, or retaliation.

Responsible Employees: An employee or designated student employee of the University who is obligated by this Policy to share knowledge, notice, and/or reports of sex discrimination and/or retaliation with the Title IX Coordinator. The only exceptions to mandatory reporting obligations are counselors and nursing professionals in the Wellness Center while they are serving in their official capacity as caregiver providers.

Retaliation: Intimidation, threats, coercion, discrimination, or any other materially adverse action against any person by the University, a student, or an employee, or other person for the purpose of interfering with any right or privilege under this Policy or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing in a grievance process under this Policy.

Sex Discrimination: An umbrella category that includes the offenses of sexual harassment, sexual assault, dating violence, domestic violence, and stalking. Sex discrimination is discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation or gender identity.

Sex-based Harassment: A form of sex discrimination. Sex-based harassment means sexual harassment and other harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and sex-based stalking.

Student: An individual who has gained admission to the University.

Title IX Coordinator: An official designated by the University who has authority to institute corrective measures on behalf of the University and who ensures compliance with Title IX, related federal, state, and local laws, and the University's Title IX program.

Title IX Deputy Coordinator: An official designated by the University to also have authority to institute corrective measures on behalf of the University based upon the status of the Respondent and who has delegated responsibilities by the Title IX Coordinator.

Title IX Team: The Title IX Coordinator, Deputy Coordinators, and any member of the Formal Grievance Process Pool.

2. STATEMENT AGAINST DISCRIMINATION AND HARASSMENT

The University believes that all employees and students should be able to work and learn in an educational environment free from discrimination and harassment. The University prohibits harassment and discrimination against students, employees, and applicants regardless of race including traits associated with race, including, but not limited to, hair texture and protective hairstyles (such as braids, locks, and twists), color, caste, national origin, religion, sex, gender identity, sexual orientation, age, disability, citizenship, arrest record status, political affiliation, veteran status, pregnancy, marital status, or other protected status as those terms are defined by applicable federal, state, and local law.

The University does not discriminate and will not tolerate discrimination against any member of its community that is based on a protected status. Nor will it tolerate harassing conduct that affects tangible job or educational benefits, interferes unreasonably with an individual's work or academic performance, or that creates an intimidating, hostile, or offensive working, educational, or learning environment. Such conduct shall be considered discriminatory harassment and is specifically prohibited by this Policy.

Furthermore, the University is committed to addressing sexual misconduct and interpersonal violence. These behaviors, which include sexual harassment, sexual assault, dating violence, domestic violence, and stalking, are prohibited by this Policy.

Conduct prohibited by this Policy constitutes a University violation regardless of whether the conduct at issue would violate applicable law. Any student, student organization, faculty or staff member, other employee, or third parties such as contractors, guests, visitors, volunteers, invitees, and campers who engage in prohibited discrimination, harassment, or retaliation will be subject to disciplinary action up to and including permanent expulsion from the University in the case of students, termination in the case of employees, or termination of contract/removal from campus in the case of third parties.

Complaints of discrimination or harassment should be made to the Title IX Coordinator as outlined in Section 9.a. Complaints of discrimination or harassment that meet the standards governed by Title IX will be resolved through Process A outlined in Section 32 of this Policy. Complaints of discrimination or harassment based on protected characteristics that meet the standards of this Policy will be resolved through Process B outlined in Section 33 of this Policy.

3. PROHIBITION OF RETALIATION

Retaliation exists when the University or an individual intimidates, threatens, coerces, discriminates, or engages in other materially adverse action against any individual to interfere with any right or privilege secured by the Non-Discrimination and Non-Harassment Policy, or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing as outlined in this Policy.

Intimidation, threats, coercion, or discrimination, including complaints against an individual for policy violations that do not involve sex discrimination, but arise out of the same facts or

circumstances as a report or Complaint of sex discrimination, or a report or Complaint of sex discrimination, for the purpose of interfering with any existing investigation, constitute retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a policy violation for making a materially false statement in bad faith in the course of a grievance process under this Policy does not constitute retaliation, provided that a determination regarding responsibility alone is not sufficient to conclude that any party has made a materially false statement in bad faith.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly evaluated to determine the appropriate next steps, up to and including investigation. Elmhurst University takes retaliation seriously and will offer appropriate protection to individuals who have been subjected to retaliation.

4. PROHIBITION OF SEX DISCRIMINATION

The U.S. Department of Education, the Equal Employment Opportunity Commission (“EEOC”), and the State of Illinois regard sex discrimination as an unlawful discriminatory practice. Acts of sex discrimination may be committed by any person upon any other person, regardless of the sex, sexual orientation, gender identity, or other sex characteristics of those involved.

Sex discrimination is defined as conduct on the basis of sex that classifies as one or more of the following:

a) *Quid Pro Quo* Harassment

An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University’s education program or activity who explicitly or impliedly conditions the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct. *Quid Pro Quo* harassment may apply to student Respondents or to an individual who claims to have authority to provide some aid, benefit, or service, even if they are unable to do so. Benefits that fall under this definition include extracurriculars and academics.

b) Hostile Environment Harassment

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive *and* is so severe *or* pervasive that it limits or denies a person’s ability to participate in or benefit from the University’s education program or activity. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the Complainant’s ability to access the University’s education program or activity;
- The type, frequency, and duration of the conduct;
- The parties’ ages, roles within the University’s education program or activity, previous interactions, and other factors about a party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and;
- Other sex-based harassment in the University’s education program or activity.

c) Sexual Assault

An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Specifically, this includes:

- Rape - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- Incest - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape - Sexual intercourse with a person who is under the statutory age of consent.

d) Dating Violence

Violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition, dating violence includes, but is not limited to, sexual, emotional, or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

e) Domestic Violence

Violence, on the basis of sex, committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Illinois, 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 Illinois.

f) Stalking

Engaging in a course of conduct, on the basis of sex, 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.

For the purposes of this definition, *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.

Any report of sexual assault, dating violence, domestic violence, or stalking is not subject to the elements referenced in the definitions of Section 4.b. above.

UNIVERSITY REQUIREMENTS

The University is required under 2024 Title IX regulations to respond to incidents of sex discrimination, as stated above. Additionally, Complainants may opt to contact law enforcement to address sexual assault, domestic violence, dating violence, and/or stalking incidents. These forms of sex discrimination violate Illinois law and may be subject to criminal investigation. It is the Complainant's decision whether to report these offenses to law enforcement and the University is obligated to respect the victim's decision.

The policies of Elmhurst University are written and interpreted broadly to include online manifestations of any of the behaviors prohibited above, when those behaviors occur in or have an effect on the University's education program and activities or use the University's networks, technology, or equipment.

Although Elmhurst University may not control websites, social media, and other venues in which harassing or discriminatory communications are made, when such communications are reported to the University it will engage in appropriate means to address and mitigate the harmful effects on the Complainant.

Members of the campus community are encouraged to be good digital citizens and to refrain from online misconduct, such as: posting on anonymous gossip sites; sharing inappropriate content via social media; engaging in unwelcome sexual or sex-based messaging; distributing or threatening to distribute sexual photos, videos, or other revenge pornography; breaching privacy via watching or recording sexual activity without consent of the individual(s) involved in the sexual act(s); or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm students or employees at Elmhurst University.

ADDITIONAL DEFINITIONS

Related to these definitions of prohibited sex discrimination are the following definitions of specific terms used in the offenses described above.

g) Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me. I'll do what you want.").

h) Coercion

Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, location, and duration of the pressure involved.

i) Consent

Consent requires clear, unambiguous, voluntary, and positive agreement by word or action between the participants to engage in each single specific sexual activity.

Consent is a freely given agreement to sexual activity. Consent to sexual activity can be communicated in a variety of ways, but one should presume that consent has not been given in the absence of clear, positive agreement. While verbal consent is not a requirement for consensual sexual activity, verbal communication prior to engaging in sexual activity helps to clarify consent. Individuals are strongly encouraged to communicate verbally before engaging in sexual activity.

Consent must be clear and unambiguous for each participant at every stage of a sexual encounter. Consent to one type of sexual activity does not imply consent to a different type of sexual activity. Silence, the absence of verbal or physical resistance, or submission resulting from the use or threat of force does not constitute consent. Coercion, force, or threat of force invalidates consent.

A prior relationship or prior consent to sexual activity does not indicate consent to future sexual activity. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person. A person's manner of dress does not constitute consent. Consent can be withdrawn at any time through clear communication in words or actions. To be valid, consent must be given immediately prior to or contemporaneously with the sexual or intimate actions. Any prior consensual sexual conduct between the parties does not by itself demonstrate or imply the Complainant's consent.

Consent in relationships must also be considered in context. When parties consent to bondage, discipline/dominance, submission/sadism, masochism or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying "no" may be part of the kink and thus consensual, so evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether this Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any

similar, previous patterns that may be evidenced.

A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent because they are underage, asleep, unconscious, or mentally or physically incapacitated, either through the use of drugs or alcohol, because of a disability, or for any other reason. Additionally, the use of alcohol or drugs may seriously interfere with the participants' judgment about whether consent has been sought and given.

j) Incapacitation

A person cannot consent to sexual activity if they are unable to understand what is happening or they are below the legal age to consume alcohol, using illicit drugs or abusing legal drugs, disoriented, helpless, asleep, or unconscious, for any reason. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It may be a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

5. RESTRICTIONS ON CONSENSUAL AMOROUS RELATIONSHIPS

At the core of the University's mission is an implied responsibility of trust and ethical behavior in every relationship in which a University employee has a relationship with a student or another employee. Conflicts of interest can arise in a consensual romantic and/or sexual relationship (i.e., "amorous relationship") because of the power differential that often exists between the parties to such relationships. Such relationships can present serious ethical concerns about issues such as validity and consent, sexual harassment, and unfair treatment by others. As a result, such relationships can have a negative effect on the parties involved and the Elmhurst University campus community.

Although consensual amorous relationships do not necessarily lead to sexual harassment, such relationships may be problematic or even give rise to allegations of sexual harassment or other inappropriate conduct if, 1) a consensual relationship ends and one of the parties continues

behavior that is unwelcome by the other party, and/or 2) a consensual relationship creates an unfair, hostile, or intimidating learning or work environment. Therefore, this Policy places certain limitations and restrictions on consensual amorous relationships and imposes certain obligations on the party in such relationships who has the supervisory, evaluative, or advisory authority.

The University prohibits all employees from participating in consensual amorous relationships with students or other employees whenever a “professional relationship” (as defined below) between the parties exists. For purposes of this Policy, “employee” includes all University faculty, staff, and administrators, or other individuals who receive wages through payroll from the University in exchange for their work. “Professional relationship” is a relationship that involves the exercise of supervisory, evaluative, or advisory authority by an employee over another employee or a student, including but not limited to teaching, grading, academic advising, mentoring, coaching, supervising, decision making relating to employment or student status, or other oversight over campus business or activities.

No employee may have a professional relationship with a student with whom the employee is having or has recently concluded a consensual amorous relationship.

If a consensual amorous relationship exists or has existed between an employee and a student or other employee with whom the employee also has a professional relationship, the employee in the supervisory, evaluative, or advisory role must report the relationship to the Director of Human Resources determine what action is appropriate, including whether the duties giving rise to the reporting employee’s professional relationship with the student or other employee will be reassigned. Should a professional relationship develop between two employees, the University may attempt to find a suitable position to which one of the effected employees may transfer, and if an accommodation of this nature is not feasible, the affected employees will be permitted to determine which of them will resign. An employee’s violation of this Policy may lead to disciplinary action, up to and including termination of employment at the University.

Retaliation against any person who reports concerns about consensual amorous relationships is prohibited and constitutes a violation of this Policy. Questions regarding consensual amorous relationships under this Policy may be directed to the Director of Human Resources.

6. RESOURCES

The following resources are available for individuals who have experienced sex-based discrimination or have been accused of committing sex-based discrimination.

- a) [Elmhurst University Resources](#)
 - Public Safety—Lehmann Hall, Lower Level or (630) 617-3000
 - Student Support Services & Intervention—Frick Center, Room 227 or (630) 617-5790
 - Counseling Services—Niebuhr Hall, Lower Level or (630) 617-3565
 - Student Health Services—Niebuhr Hall, Lower Level or (630) 617-3565
 - Student Affairs—Frick Center, Room 240AB or (630) 617-3187
 - Housing and Residence Life Staff “On Call”—(630) 617-3150
 - Human Resources (for employees) - Lehmann Hall Floor 2 (630) 617-3016

The following resources are available for individuals who have experienced sex-based discrimination.

b) [External Resources](#)

- [Family Shelter Service](#) (24 hours a day)
605 E. Roosevelt Road, Wheaton, Illinois 60187
Hotline: (630) 469-5650
- [YWCA Patterson and McDaniel Family Center](#)
2055 West Army Trail Road, Suite 140, Addison, Illinois 60101
24-hour Rape Crisis Hotline: (888) 293-2080 (text available 9am-5pm)
Non-Emergency Number: (630) 790-6600 ext. 4311
- [DuPage County State's Attorney Victim Services](#)
505 North County Farm Road, Wheaton, Illinois 60187
Non-Emergency Number: (630) 407-8000, legal services): (773) 244-2230
- [Apna Ghar](#) (Immigrant Specific Resources)
4350 N Broadway, 2nd Floor, Chicago, IL 60613
Crisis Line: (773) 334-4663
Text Hotline: (773) 899-1041
Non-Emergency Number: (773) 883-4663
- [Between Friends](#) (24 hours/legal assistance/counseling for domestic violence)
Mailing address: P.O. Box 608548, Chicago, IL, 60660
24-hour Hotline: (800) 603-4357
- [Center on Halsted Anti-Violence Project](#) (LGBTQIA community/resource line/counseling/mental health services)
3656 N Halsted, Chicago, IL 60613
Non-Emergency Number: (773) 871-2273
- [Center on Halsted LGBT Crisis Hotline](#) (24-hours/referrals/information/counseling)
3656 N Halsted, Chicago, IL 60613
Non-Emergency Number: (773) 871-2273
- [Chicago Alliance Against Sexual Exploitation](#) (advocacy, legal services)
307 N. Michigan Ave. Suite 1020, Chicago, IL 60601
Non-Emergency Number: (773) 244-2230
- [Chicago Bar Association](#) (legal services)
321 S. Plymouth Court, Chicago, IL 60604
Non-Emergency Number: (312) 554-2000
- [Chicago Hearing Society](#) (domestic violence counseling/deaf or hard of hearing)
1444 W. Willow St., Chicago, IL 60642

(773) 904-0156/videophone, (773) 248-9121 ext. 300/voice,
(773) 248-9174/TTY

- [Chicago Rape Crisis Hotline - RAINN](#) (24 hours/referrals/information/counseling)
1 North LaSalle Street, Suite 1700, Chicago, IL 60602
24-hour Hotline: (888) 293-2080
- [Chicago Women's Health Center](#) (gynecological care/counseling)
1025 W. Sunnyside Ave. Suite 201, Chicago, Illinois 60640
Non-Emergency Number: (773) 935-6126
- [Howard Brown Health](#) (STI testing/treatment, support, legal advocacy)
Various locations. See [here](#).
24-hour Hotline: (773) 388-1600
- [Illinois Coalition Against Sexual Assault](#) (counseling/education/advocacy): Various locations. See [here](#).
Non-Emergency Number: (217) 753-4117
- [Illinois Domestic Violence Hotline](#) (also provides assistance for pets)
Various locations. See [here](#).
Non-Emergency Number: (877) 863-6338
- [KAN-WIN](#) (serving Korean/Korean-American women/24-hour hotline/legal advocacy) 24-hour Hotline: (773) 583-0880
- [Life Span](#) (domestic violence and sexual assault)
Chicago: 70 E. Lake Street Suite 600, Chicago, IL 60601
Non-Emergency Number: (312) 408-1210
Des Plaines: 701 Lee Street #700, Des Plaines, IL 60016
Non-Emergency Number: (847) 824-0382
Legal Services: (312) 408-1210
Counseling Services: (847) 824-0382
- [City of Chicago Division on Domestic Violence](#) (24-hours/referrals/information)
24-hour Hotline: (877) 863-6338
- [Mujeres Latinas en Acción](#) (serving Latina women/24-hour hotline)
Various locations. See [here](#).
Non-Emergency Number: (312) 738-5358
24-hour Domestic Violence Hotline: (877) 863-6338
24-hour Rape Crisis Hotline: (888) 293-2080
- [Greenlight Family Services](#) (formerly Porchlight Counseling Services)
Various locations. See [here](#).
Non-Emergency Number: (773) 728-7200 or (800) 572-2390
- [Resilience](#) (formerly Rape Victim Advocates [counseling and legal advocacy])

180 N Michigan Ave. Suite 600, Chicago, IL 60601
24-hour Rape Crisis Hotline: (888) 293-2080
Non-Emergency Number: (312) 443-9603

- [YWCA Metropolitan Chicago](#) (24-hour rape crisis hotline/legal and medical assistance/information/sexual violence counseling)
1 North LaSalle Street, Suite 1700, Chicago, IL 60602
24-hour Hotline (888) 293-2080
- [Youth Outlook](#) (LGBTQ+ Specific Resources)(LGBTQ+ Specific Resources)
1828 Old Naperville Road, Naperville, IL 60563
Non-Emergency Number: (815) 754-5331
State Resources
- [Illinois Coalition Against Domestic Violence](#)
806 South College Street, Springfield, Illinois 62704
Illinois Domestic Violence Help Line: (877) 863-6338
Non-emergency Number: (217) 789-2830
- [Illinois Coalition Against Sexual Assault](#)
100 North 16th Street, Springfield, Illinois 62703
(217) 753-4117

National Resources

- [RAINN \(Rape, Abuse & Incest National Network\)](#)
(800) 656-4673
- [The National Domestic Violence Hotline](#)
(800) 799-7233
- [VictimConnect Resource Center](#)
(855) 484-2846
- [National Sexual Assault Hotline](#) (24-hour helpline)
24-hour Hotline: (800) 656-4673
- [National Suicide Prevention Lifeline](#)
24-hour Hotline: (800) 273-TALK (8255), en Español (888) 628-9454

c) [Medical Support and Preservation of Evidence](#)

In some instances of sexual violence, the Complainant should consider seeking medical attention as quickly as possible, regardless of whether the Complainant chooses to report any incident to the University. This will serve to protect evidence and provide support for the health and safety of the Complainant. Sexual Assault Nurse Examiners (SANEs) are available at Endeavor Health's Elmhurst Hospital Health Emergency Department (Emergency Room) and are on call 24/7 to provide free forensic examinations and comprehensive care to sexual assault patients. An evidence collection kit can be collected for a minimum of 7 days after an assault, and a survivor does not need to complete a kit to receive an exam and treatment at no cost to the survivor. The kit also does not need to be immediately (or ever) released to the police for testing and will be stored for at least 10 years. The hospital location and contact information is provided below.

[Endeavor Health Elmhurst Hospital](#)

155 E. Brush Hill Road, Elmhurst, Illinois 60126

Main number: (331) 221-1000

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. The University will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Preserving Evidence: Sexual Assault

- Seek forensic medical assistance at the nearest hospital (see above), ideally within 120 hours of the incident (sooner is better).
- Test for the presence of drugs if a survivor believes they were drugged. Testing has a window of 12-14 hours generally.
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be present and collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic prevents air circulation and may destroy potential evidence) or a secure evidence container (if one is provided by a hospital SANE nurse or law enforcement.)
- Seeking medical treatment can be essential for a survivor's well-being, even if it is not for the purposes of collecting forensic evidence.

Preserving Evidence: Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media communications.
- Take timestamped photographs of any physical evidence, including notes, gifts, etc., when possible.
- Save copies of any text messages, emails or written communication, including any documents showing any request to stop further contact from the other party.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible. These types of call logs are usually available from your cell phone carrier and may be requested by the owner of the account.
- Consider recovering deleted messages or emails; depending upon the phone carrier, deleted text messages can sometimes be recovered within the same billing period.

7. THE ROLE OF THE TITLE IX COORDINATOR AND DEPUTY COORDINATORS

The Title IX Coordinator is responsible for implementing discrimination and harassment resolution procedures and for monitoring Title IX and other related legal compliance on behalf of Elmhurst University. This includes the coordination of training, education, communications, and administration of the University's intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sex discrimination and retaliation prohibited

under this Policy. The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy for the sole purpose of ensuring that resolutions are completed. However, the Title IX Coordinator oversees the sex discrimination response procedures to ensure both that resolutions are completed and that corrective measures are implemented on behalf of Elmhurst University.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Assistant Vice President for Student Affairs, Mr. Marc Molina, at marc.molina@elmhurst.edu or (630) 617-3042 or the Vice President for Student Affairs, Dr. Phil Riordan, at phil.riordan@elmhurst.edu or (630) 617-3050. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator. If the Complaint relates to the Title IX Coordinator, you may contact Mr. Molina or Dr. Riordan (info above). Complaints, notice of alleged policy violations, or any inquiries regarding Title IX or the University's prohibition of sex discrimination should be directed to the University's Title IX Coordinator:

Ms. Natalie Brouwer
Title IX Coordinator
Office of Student Affairs
Frick Center 240B
Elmhurst University
190 Prospect Avenue
Elmhurst, IL 60126
(630) 617-3341
TitleIX@elmhurst.edu

The Title IX Coordinator may also appoint Title IX Deputy Coordinators who are members of the Title IX Team and also have authority to institute corrective measures on behalf of Elmhurst University based upon the status of the Respondent.

The current Title IX Deputy Coordinators for the University are:

Mr. James Fitzgerald
Executive Director of Human Resources/Title IX Deputy Coordinator for Staff
Human Resources
Lehmann Hall 222
Elmhurst University
190 Prospect Avenue
Elmhurst, IL 60126
(630) 617-3020
jfitzgerald@elmhurst.edu

Dr. Dean Pribbenow
Vice President for Academic Affairs and Dean of the Faculty/Title IX Deputy Coordinator for Faculty
Office of Academic Affairs
Goebel Hall 104B

Elmhurst University
190 Prospect Avenue
Elmhurst, IL 60126
(630) 617-3063
dpribbenow@elmhurst.edu

Concerns about the enforcement of Title IX and other relevant laws may be made externally to:

Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Phone: (800) 421-3481
Fax: (202) 453-6012
TDD: (800) 877-8339
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Office for Civil Rights
Chicago Office
U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Phone: (312) 730-1560
Fax: (312) 730-1576
Email: OCR.Chicago@ed.gov

Equal Opportunity Employment Commission
Chicago District Office
John C. Kluczynski Federal Building
230 S. Dearborn Street, Suite 1866
Chicago, IL 60604
Phone: (312) 872-9744
Fax: (312) 588-1260
TTY: (800) 669-6820
ASL Video Phone: (844) 234-5122

If you have a concern that your rights are being violated (whether student, employee, or covered third party), you should follow the procedures set forth in this Policy. If you are not sure who to go to or are unsure if you have a Complaint that falls within the scope of Title IX, you may reach out directly to the Title IX Coordinator. In addition to contacting the Title IX Coordinator, in instances of alleged or suspected sexual harassment or other potentially criminal conduct, you may contact Public Safety at (630) 617-3000 or local police by calling 911.

8. AMNESTY POLICY FOR REPORTING SEX DISCRIMINATION

The University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report an incident to University officials or participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University community that Complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the University maintains a policy of offering parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, surrounding the time the incident took place. Granting amnesty is a discretionary decision made by the University, and amnesty does not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

A. Students

The University maintains an amnesty policy for students who offer help to others in need (i.e., intervention, medical aid, notification of University officials or law enforcement) and/or who report or act as witnesses in sex discrimination matters.

B. Employees

Employees may be hesitant to report discrimination, harassment, or retaliation they have experienced for fear of being subject to disciplinary action themselves. The University may, at its discretion, offer employee Complainants, Respondents, and witnesses amnesty from minor policy violations related to the incident on a case-by-case basis.

9. REPORTING COMPLAINTS OF SEX DISCRIMINATION AND/OR RETALIATION

There are several methods individuals can use to report sex discrimination or retaliation violations of this Policy, regardless of where the incident occurred.

The University encourages Complainants to report any incident of sex discrimination or retaliation as soon as reasonably possible, **but there is no time limit on reporting these incidents**. However, if the Respondent is no longer a member of the University community, the ability to investigate, respond, and provide remedies may be limited or impossible.

Acting on reports significantly impacted by the passage of time is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

The University supports a Complainant's right to privacy in cases involving sex discrimination or retaliation. To the extent possible, the University will only disclose information

regarding such alleged incidents to individuals who are responsible for supporting the University's response.

Anyone who believes they have experienced sex discrimination or retaliation is encouraged to report the incident by using one or more of the procedures described below.

a) Reporting to the Title IX Coordinator or a Deputy Coordinator

Any person may report an incident of sex discrimination or retaliation to the Title IX Coordinator or a Deputy Coordinator. The reporting party may be the person directly affected by the reported incident (referred to as the "Complainant") or a third party. Reports may be written or verbal and may be made at any time (including non-business hours) in person, by mail, by telephone, or by email to the Title IX Coordinator or Deputy Coordinators listed in Section 7 of this Policy. The Title IX Coordinator and Deputy Coordinators have authority to institute corrective measures on behalf of Elmhurst University.

The Title IX Coordinator may file a Complaint in the event that another party does not file one when it is determined that an imminent and serious threat to health or safety exists, or the alleged conduct prevents the University from ensuring equal access.

b) Reporting to a Responsible Employee

Responsible Employees (i.e., Mandated Reporters) are required to report any alleged incidents of sex discrimination or retaliation they have witnessed or been made aware of to the Title IX Coordinator. All University employees (including student employees) and contract vendor service providers are considered Responsible Employees. Students identified as Head Residents, Resident Advisers, ELSA Community Advisors, and Orientation Student Leaders are also considered Responsible Employees. All Public Safety employees, including student employees, are Responsible Employees. Responsible Employees are expected to report directly to the Title IX Coordinator as much detailed information as was made available to them, including the Complainant's name, the Respondent's name, and any other relevant details.

If a student or employee reports an incident to any Responsible Employee, privacy concerns mandate that the Responsible Employee share the information report with the Title IX Coordinator, and/or a Deputy Coordinator, and any approved staff member (i.e., ELSA staff if the person receiving the report were an ELSA Community Advisor). If a Responsible Employee shares information regarding possible sex discrimination or retaliation with their supervisor, the supervisor is obligated to report to the Title IX Coordinator as well. Responsible Employees do not have authority to institute corrective measures on behalf of Elmhurst University.

Failure of Responsible Employees, as described above in this section, to report an incident of sex discrimination or retaliation of which they become aware is a violation of University policy and can be subject to disciplinary action for failure to comply. It is important to clarify that a Responsible Employee who is a target of a potential violation under this Policy is not required to report their own experience as a Complainant to the Title IX Coordinator, though they are encouraged to do so.

c) Reporting Online

In addition to reporting directly to the Title IX Coordinator, a Deputy Coordinator, or a Mandated Reporter, Elmhurst University employees and students can submit a report electronically. The form, available [here](#), allows for anonymous, third party, and bystander reports. The Title IX Coordinator receives reports submitted through this form and addresses them promptly and effectively.

d) Reporting to a Confidential Advisor

Under Illinois law, student Complainants must be afforded the opportunity to communicate with a Confidential Advisor about sexual assault, stalking, and/or domestic or dating violence for both emergency and ongoing support. A Confidential Advisor (see below) is utilized by the University to provide emergency and ongoing support to Complainants of these types of sex discrimination. The University's Confidential Advisor provides a safe space to discuss incidents and will generally not disclose any identifying information to Elmhurst University without the Complainant's permission. The Confidential Advisor works solely on the Complainant's behalf to provide empathetic guidance and educate them on their various rights and options regarding sexual assault, stalking, and/or domestic or dating violence. Only students may utilize the Confidential Advisor, not employees.

The areas covered by the Confidential Advisor include, but are not limited to, discussing choices regarding both accommodations and investigations, medical advocacy, crisis intervention, assistance with reporting to police, navigating the court system, protective order petitions, and housing advocacy. Further, the Confidential Advisor is able to participate as an advisor in any meeting related to an investigation or grievance process. At a minimum, they have received at least 40 hours of training on sexual violence, accumulated 6 hours of ongoing education training annually, and have had intensive training on the University's administrative process, supportive measures, and grievance processes with the intent of assisting students to navigate the systems and processes. Finally, Confidential Advisors are versed in different free resources and referrals available to Complainants, including counseling.

Complainants wishing to work with a Confidential Advisor should contact the University's designated 24/7 Confidential Advisor listed below.

YWCA Metropolitan Chicago

Rape Crisis Center for DuPage County

24/7 hotline: (888) 293-2080 (text available 9am-5pm Monday-Friday)

(630) 790-6600 ext. 4311 (non-emergency line)

dupageadvocacy@ywcachicago.org

e) Reporting to a Confidential Resource

The only Elmhurst University employees who are *not* considered Responsible Employees are the care providing staff members in the Wellness Center who work in Student Health Services and Counseling Services. These staff members serve as a confidential resource to students, meaning that disclosures of sex discrimination or retaliation to Wellness Center staff from a patient would not be shared with the Title IX Coordinator or Deputy Coordinators and would be kept confidential per patient privacy rights. While these staff

members are not Responsible Employees, they are permitted to help students file a sex discrimination report if requested by the student.

The Wellness Center (Student Health Services & Counseling Services)

Niebuhr Hall 010
Elmhurst University
190 Prospect Avenue
Elmhurst, IL 60126
(630) 617-3565
studenthealth@elmhurst.edu

f) Reporting to the Police

Complainants can contact the local police to initiate the criminal reporting process, which is separate from the campus reporting process. Elmhurst University Public Safety will support students and employees who desire assistance working through the criminal reporting process. Students and employees may choose not to involve local police. Additional information and resources regarding these issues are available below and on the [Public Safety website](#).

[Elmhurst Police Department](#)

125 E. First Street, Elmhurst, Illinois 60126
Emergency Number: 911
Non-Emergency Number: (630) 530-3050

The Rights of Crime Victims and Witnesses Act is an Illinois Law (Illinois Compiled Statutes, Chapter 725, paragraph 120/1 *et seq.*4) which aims to ensure that crime victims are treated with fairness and respect for their dignity and privacy throughout the criminal justice system. This law affords crime victims certain rights in connection with the criminal justice system.

Any criminal or other investigation conducted by law enforcement authorities is separate from an investigation that the University conducts under this Policy and does not relieve the University of its obligations under Title IX, the Preventing Sexual Violence in Higher Education Act, or other applicable law. If law enforcement makes a request, the University may decide to delay its investigation for a brief period of time but will take any corrective measures it deems necessary to address the issue before the investigation. If requested to provide information to law enforcement, the University will cooperate with such a request consistent with its privacy obligations under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and other applicable laws.

Deliberately false or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

10. PRIVACY

Elmhurst University makes every effort to preserve the privacy of all involved parties. The University will not share the identity of any individual who has made a Complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of discrimination, harassment, or retaliation; any Respondent; or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), the Family Educational Rights and Privacy Act ("FERPA") and its implementing regulations, or as required by law, including any investigation or resolution proceeding arising under these policies and procedures.

Parties and advisors are prohibited from unauthorized disclosure of information obtained through the resolution process, to the extent that information is the work product of the University (meaning it has been produced, compiled, or written by the University for purposes of its investigation and resolution of a Complaint). It is also a violation of this Policy to publicly disclose these work products or any party's personally identifiable information ("PII") without authorization or consent. Violation of this Policy is subject to significant University sanctions, up to and including dismissal from the University in the case of students or termination of employment in the case of employees, or other appropriate actions.

11. JURISDICTION OF THE UNIVERSITY

This Policy applies to the programs and activities of Elmhurst University, to conduct that takes place on the campus or on property owned or controlled by the University, at University-sponsored events, or in buildings owned or controlled by the University's recognized student organizations. The Policy also applies to off campus conduct subject to the University's disciplinary authority, based on a case-by-case assessment of the Title IX Coordinator.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Elmhurst's educational program. The University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct is of substantial interest to the University community.

Regardless of where the conduct occurred, the University will address reports to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off campus sponsored program or activity. A substantial University interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests or mission of the University.

If the Respondent is unknown or is not a member of the Elmhurst University community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources

and support options and/or, when criminal conduct is alleged, in contacting local law enforcement if the individual would like to file a police report.

Further, regardless of whether the Respondent is a member of the University's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator. In addition, the University may take other actions as appropriate to protect the Complainant against third parties (i.e., vendors, facility renters, or visitors to campus), such as barring these individuals from University property and/or events.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sex discrimination or retaliation in an internship, study abroad program, or other environment external to the University where sex discrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

12. REPORT RESPONSE AND ASSESSMENT

Upon receiving a report of sex discrimination or retaliation, the Title IX Coordinator will promptly request a meeting with the Complainant who made the report or about whom the report was made. The meeting's purpose is to review the Complainant's rights and options, including but not limited to additional reporting options, privacy rights, contact information for on and off-campus resources, receiving supportive measures, the process for filing a complaint, and a summary of the University's Informal Resolution and Formal Grievance Processes. The Complainant has the right to have an Advisor accompany them to this meeting.

If a Complainant does not wish to meet with the Title IX Coordinator, these rights and options will be emailed to the Complainant and are available in an electronic format on the [University's Title IX webpage](#). If a Complainant chooses to not initially meet with the Title IX Coordinator, they are still permitted to request to meet with the Title IX Coordinator at any future time. The Title IX Coordinator conducts an initial evaluation typically within seven (7) business days of receiving a Complaint or notice or knowledge of alleged misconduct. If the Complainant indicates they wish to initiate a Complaint (in a manner that can reasonably be construed as reflecting intent to make a Complaint as defined in this Policy), the Title IX Coordinator will help to facilitate the Complaint.

Before, during, after, or without a meeting with the Title IX Coordinator, a Complainant has the option to request the following after submitting a report of sex discrimination or retaliation:

- Receive supportive measures;
- Request to not proceed with a report or file a Complaint;
- File a Complaint;
- Participate in an Informal Resolution; and
- Pursue a Formal Grievance Process (upon submission of a Complaint).

If the Complainant requests supportive measures, the Title IX Coordinator will work with the Complainant to assess the request, identify the measures most suitable for their wishes, and

implement supportive measures accordingly. Additional information regarding supportive measures is outlined in Section 13.

If the Complainant requests not to proceed with a report or file a complaint, the Title IX Coordinator or Deputy Coordinator will need to conduct a violence risk assessment to determine if the University can respect the Complainant's request without jeopardizing the safety of the parties involved or the campus community. Additional information regarding not proceeding with a report or filing a Complaint is outlined in Section 14.

a) Informal Resolution and Formal Grievance Process

If the Complainant requests to participate in Informal Resolution, the Title IX Coordinator or Deputy Coordinator will assess whether the matter is suitable for Informal Resolution, which Informal Resolution mechanism may best serve the situation, and must determine if the Respondent is also willing to engage in Informal Resolution. The Title IX Coordinator and parties must all consent to an Informal Resolution. Either party may withdraw at any time from the Informal Resolution process.

If the Complainant requests to pursue the Formal Grievance Process, the Title IX Coordinator determines if the reported misconduct is conduct related to sex discrimination and retaliation and within the definitions as set forth in the 2024 Title IX regulations. If it does, the Title IX Coordinator will initiate Process A, outlined beginning in Section 18. If it does not, the Title IX Coordinator will initiate Process B, outlined beginning in Section 18.

The University uses the Formal Grievance Process to determine whether or not the Policy has been violated. If initiated, the University will promptly implement effective remedies designed to address sex discrimination or retaliation, their potential recurrence, or their effects. Dismissing a Complaint under Title IX does not limit the University's authority to address a report with an appropriate process and remedies.

b) Violence Risk Assessment

After receiving an initial report of sex discrimination or retaliation, the Title IX Coordinator must assess the nature of the allegations, the safety of the involved individuals and the greater University community, and the need for any emergency measures to maintain the safety of the involved individuals or the University community.

This violence risk assessment is performed by the Title IX Coordinator and may be done in conjunction with the Threat Assessment Team using its standard objective violence risk assessment procedures.

A violence risk assessment can aid in making critical determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to health/safety;
- Whether the Title IX Coordinator should pursue/sign a Complaint absent a willing/able Complainant;
- To help identify potential predatory conduct;

- To help assess/identify grooming behaviors in order to implement appropriate preventive action or monitoring;
- Whether it is reasonable to try to resolve a Complaint through Informal Resolution; and/or
- Whether a Clery Act Timely Warning/No Trespass Order/*persona-non-grata* is needed.

13. SUPPORTIVE MEASURES

The University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sex discrimination or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Complaint or where no Complaint has been filed. These individualized measures are designed to restore or preserve equal access to Elmhurst University's education program and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Elmhurst's educational environment, or to deter sex discrimination or retaliation.

Supportive measures are available regardless of whether a Complaint is filed and/or a Formal Grievance Process is sought by the Complainant. The University may determine which supportive measures are reasonably available. They may be continued, modified, or terminated at the conclusion of the grievance process or informal resolution. No Contact Orders are a common tool for the University in Title IX matters and are considered supportive measures. Such supportive measures can include, but are not limited to, the following: No Contact Orders;

- No Trespass Orders;
- *Persona Non Grata* Orders;
- Referral to Counseling Services or Student Health Services on campus;
- Referral to counseling, medical, or other healthcare services off campus;
- Referral to community-based service providers;
- Referral to the Employee Assistance Program;
- Academic support, extensions of deadlines, or other course-related adjustments;
- Modifications of work schedules;
- Changes in work or housing locations;
- Class schedule modifications, withdrawals, or leaves of absence;
- Campus escort services through Public Safety; and
- Increased security and monitoring of certain areas of the campus.

The Title IX Coordinator shall promptly and effectively make supportive measures available to the parties upon receiving a report of sex discrimination or retaliation. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to the supportive measures that are planned and implemented.

The University will maintain the greatest degree possible of privacy regarding any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such privacy will not impair the ability of the University to provide the supportive measures.

Violations of directives and/or protective or supportive measures, such as No Contact Orders or other restrictions may result in disciplinary action separate from any sanctions issued for a finding of responsibility in violating the Non-Discrimination and Non-Harassment Policy.

Either party may challenge a supportive measure granted to the other party or not granted to the challenging party to the Vice President for Student Affairs in the case of students, or the appropriate Deputy Coordinator in the case of employees. This includes a No Contact Order, Persona Non Grata Order, or Trespass Order issued by the University. Specifically, the University permits either party the chance to seek modification, reversal, or denial of a supportive measure as applied to them (i.e., a party cannot challenge a supportive measure provided to the other party). The challenge must be in writing and submitted within five (5) business days of receipt of written notice regarding the grant or denial of a supportive measure. The Vice President for Student Affairs or the appropriate Deputy Coordinator for the appealing party's area must respond within five (5) business days in writing with a decision to the challenge. This decision is final. However, either party has additional opportunities to challenge supportive measures if circumstances change materially. The party may contest the supportive measure even if it pertains to a third party on a case-by-case basis as determined by the Title IX Coordinator.

14. **COMPLAINANT'S REQUEST TO NOT PROCEED WITH AN INVESTIGATION**

A Complainant may request for an investigation to not take place, i.e., when the Complainant does not want to file a Complaint. The Complainant's decision should be conveyed to the Title IX Coordinator verbally or in writing. The Title IX Coordinator will evaluate the request under the circumstances.

The Title IX Coordinator has ultimate discretion over whether the University proceeds with an investigation when the Complainant does not wish to move forward, and the Title IX Coordinator may file a Complaint in specific situations. The Title IX Coordinator may file a Complaint where it is determined that an imminent and serious threat to health or safety exists or the alleged conduct prevents the University from ensuring equal access.

The University's ability to remedy and respond to reports may be limited if the Complainant does not want the University to proceed with an investigation. If the Complainant elects to take no action and the Title IX Coordinator does not initiate an investigation, the Complainant retains the right to pursue a Complaint at a later date. Upon subsequently making a complaint, a Complainant can expect to have allegations taken seriously by the University, and to have the incidents appropriately resolved through the processes outlined in this Policy if the Complaint qualifies to proceed. Delays may cause limitations on access to evidence or witnesses, or present issues with respect to the status of the parties.

15. **FILING OR DISMISSING A COMPLAINT**

a) **Filing a Complaint**

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

Complaint must be filed. If a Complaint is submitted in a form that does not meet the Policy's standards, the Title IX Coordinator will contact the Complainant to offer assistance in a proper filing.

As described more fully above, if the Complainant requests not to proceed with an investigation, the Title IX Coordinator has the authority to document and sign a complaint. When the Title IX Coordinator initiates the complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

If more than one Complaint is filed in relation to allegations of sex discrimination against more than one Respondent, by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sex discrimination arise out of the same facts or circumstances, the complaints can be consolidated into one Complaint under the Formal Grievance Process at the discretion of the Title IX Coordinator. This combined Complaint should be referred to as a consolidated complaint.

b) [Dismissing a Complaint Alleging Sex-Based Discrimination](#)

The University may dismiss a Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the Complaint would not constitute sex discrimination as defined in Section 4 of this Policy, even if proved;
- The University is unable to identify the Respondent after taking reasonable steps to do so;
- The University no longer enrolls or employs the Respondent;
- A Complainant voluntarily withdraws any or all of the allegations in the Complaint, and the Title IX Coordinator declines to initiate a Complaint;
- The University determines the conduct alleged in the Complaint would not constitute a Policy violation, if proven; or
- The Complainant withdraws all or a portion of Complaint and any remaining conduct would not be sex-based discrimination under Title IX.

Upon dismissing a Complaint related to one of the reasons described above, the Title IX Coordinator will promptly send written notice of the dismissal and the reasons for it to the Complainant via the Elmhurst University email address. The University must notify the Respondent only if the Respondent has already been notified of the complaint. If the Respondent is not a member of the campus community, reasonable efforts will be made to provide such written notice.

Only the Complainant has the right to appeal dismissal if the Respondent is not notified of the complaint. If the Respondent knows of the complaint, both parties have equal right to appeal. Both parties (or only Complainant if appropriate) must have a reasonable and equal opportunity to make a statement. Either party may appeal a dismissal or non-dismissal decision to the Vice President for Student Affairs in the case of students or the appropriate

Deputy Coordinator in the case of employees, or to the President for a member or the Board of Trustees.

The appeal must be in writing and submitted within five (5) business days of receipt of written notice regarding the complaint. The submission provides the party with a reasonable and equal opportunity to appeal the dismissal or non-dismissal of the complaint. The Vice President in the case of students or the appropriate Deputy Coordinator in the case of employees for the appealing party's area must respond within five (5) business days in writing to such an appeal with a decision. This decision is final. Supportive measures should be made for the Complainant, and if possible, the Respondent before, during, and after the appeals process. If a Complaint is dismissed under Title IX, it may still be able to be resolved using one of the Informal Resolution options in Section 23 or Process B as defined in Section 33 detailed below. The parties should be notified of the appeal result and the rationale in writing and/or via their Elmhurst University email addresses.

16. EMERGENCY REMOVAL

The Title IX Coordinator may remove a Respondent from Elmhurst University on an emergency basis after an individualized safety and risk analysis if a) an imminent and serious threat to the health or safety of the Complainant, any students, employees, or other persons is found, or b) if it is determined that a threat arises from sex discrimination allegations. The University must provide the Respondent an opportunity to challenge the decision immediately.

The emergency removal of a student Respondent can include, but is not limited to, an interim suspension or restriction/loss of other campus privileges during the process of an investigation and/or grievance process, such as temporary removal from on-campus housing, restricted access to campus facilities, suspending participation in leadership opportunities, extracurricular activities, student employment, or athletics. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the Respondent. In some instances, a partial removal from the education or other program may be appropriate.

If an emergency removal of a student is initiated, the Respondent will receive written notice via Elmhurst University email and will have 48 hours from the time the notice was sent to contest the decision in writing to the Title IX Coordinator via Elmhurst University email. In the written message, the student Respondent may request a meeting with the Title IX Coordinator to discuss the emergency removal. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension of a student is appropriate or should be modified or lifted. If this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A student can later request a meeting to show why they are no longer an imminent and serious threat because conditions related to imminence or seriousness have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

The student Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX Coordinator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

In cases where the Respondent is an employee, the Title IX Coordinator or Deputy Coordinator may impose emergency measures such as an administrative leave (with or without pay), temporary reassignment, or restriction/loss of other campus privileges during the process of an investigation and/or grievance process. Such emergency measures will be devised and implemented by the Title IX Coordinator and appropriate Deputy Coordinator.

Violation of the terms of any emergency actions taken under this Policy will be referred to the Office of Human Resources or the Office of Community Standards (i.e., Student Conduct), and may be grounds for discipline, which may include expulsion or termination.

17. FEDERAL STATISTICAL REPORTING AND TIMELY WARNING OBLIGATIONS

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) requires that Violence Against Women Act (VAWA)-based offenses—including sexual assault, dating violence, domestic violence, and stalking—be made known to the campus community through the Annual Security and Fire Safety Report published each year by October 1, which reports statistics from the three prior calendar years.

In addition, where it is determined that the incident may pose a serious, ongoing threat to members of the University community, the Clery Act requires the University to provide a timely warning so that members of the University community are informed and may take steps to protect themselves from harm, if necessary. In the event a timely warning is deemed necessary, a mass notification email, referred to as a Crime Alert, is sent to all students and employees on campus and is posted on the University's website. Crime Alerts may also be posted in the residence halls and various other buildings on campus and are typically posted in the lobby/entrance area of the building(s) for several days. Updates to the University community about any particular case resulting in a Crime Alert may be distributed via email.

In both Clery statistics and timely warning notices, the University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

18. OVERVIEW OF FORMAL GRIEVANCE PROCESSES AND INFORMAL RESOLUTION

Elmhurst University will act on any Complaint related to a reported violation of this Policy that is received by the Title IX Coordinator by applying the appropriate process. If a Complaint of sex discrimination is filed and is not dismissed, it can be resolved using one of the Informal Resolution options in Process A as defined in detail below.

If a Complaint of sex discrimination is filed and is dismissed, it can be resolved using one of the Informal Resolution options in Process A or Process B as detailed below. In addition to Process B being utilized for sex discrimination allegations that are dismissed under Title IX, Process B is also the grievance process used for any report of discrimination, harassment, or retaliation that is not based on sex but is based on other protected characteristics.

Sections 19-31 apply to the resolution of complaints through both Process A and Process B, unless otherwise noted.

The procedures below may be used to address misconduct arising from the investigation of, or occurring in conjunction with, reported harassment, discrimination, or retaliation. All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the Student Handbook, Faculty Manual, or Human Resources policies.

The Title IX Coordinator generally conducts an initial evaluation within seven (7) business days of receiving a Complaint or notice or knowledge of alleged misconduct. The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
 - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. It may then be referred to another process, if applicable.
- Determining whether the University has jurisdiction over the reported conduct, as defined in the Policy.
 - If the conduct is not within the University's jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate University office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Determining whether the Complainant wishes to make a Complaint.
- Notifying the Complainant, or the person who reported the allegation(s), of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the appropriate resolution process A or B as described below.
- Notifying the Respondent of the resolution processes, including a supportive and remedial response, an Informal Resolution option, or the appropriate resolution process A or B as described below, if a Complaint is made.

The University is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University permits the filing of counterclaims but uses an initial assessment, as described in Section 12, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the appropriate process detailed below. Investigation of such claims may take place after resolution of

the initial allegation, in which case a delay may occur. Counterclaims may also be resolved through the same investigation as the initial report or complaint, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they may be considered retaliatory and may constitute a violation of this Policy.

19. RESOLUTION TIMELINE

All allegations are acted upon promptly and effectively by the University once it has received a report or a Complaint. Investigations are conducted and completed promptly, fairly, and thoroughly. The University will make a good faith effort to complete the resolution process within sixty to ninety (60-90) business days, including any appeals, and can be extended as necessary for appropriate cause by the Title IX Coordinator. A delay in an investigation (several days to a few weeks) may occur due to University closure for a break period, request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will attempt to avoid all undue delays within its control.

The Complainant or Respondent may request a temporary delay or extension no less than two (2) business days before a scheduled meeting or deadline is to occur by submitting the request in writing via Elmhurst University email to the Title IX Coordinator or Deputy Coordinator. It is at the discretion of the Title IX Coordinator or Deputy Coordinator to determine if the request is reasonable and to grant or not grant it.

Any time the general timeframes for resolution outlined in this Policy will be delayed, the Title IX Coordinator or Deputy Coordinator will provide written notice to the parties via their Elmhurst University email of the delay, the cause of the delay, and the new timeline related to the next step in the procedure or process.

University action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

20. RIGHTS OF THE PARTIES

The Complainant and Respondent retain the following rights related to this Policy and the procedures set forth therein.

- The right to be treated with respect by University officials.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to have University policies and procedures followed without material deviation.
- The right to have alleged violations of this Policy responded to promptly, effectively, and with sensitivity by University officials.
- The right not to be discouraged by University officials from reporting sex discrimination or retaliation to both on-campus and off-campus authorities.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including Public Safety and local police, and the option to be assisted by University officials in notifying such authorities if the party so chooses. This also includes the right not to be pressured to report.

- The right to be informed of available interim actions and supportive measures, such as counseling, advocacy, health care, legal, student financial aid, visa, and immigration assistance or other services, both on campus and externally.
- The right to be informed of available assistance with academic, living, and/or working situations after an alleged incident of sex discrimination and/or retaliation, if any adjustments are reasonably available.
- The right to have the University maintain supportive measures for as long as necessary and for them to remain private, provided privacy does not impair the University's ability to provide the supportive measures.
- The right to request a University-implemented No Contact Order or a trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right not to be pressured to mediate or otherwise informally resolve any reported sex discrimination or retaliation.
- The right to an equitable and fundamentally fair investigation and resolution of all qualifying allegations of sex discrimination or retaliation made in good faith following the guidelines of this Policy.
- The right to request that any University official in the process be excused on the basis of disqualifying bias and/or conflict of interest.
- The right to timely written notice of all alleged policy violations, the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the relevant policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any related adjustments needed to clarify potentially relevant policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with an Informal Resolution or Formal Grievance Process.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to fair opportunity to provide the Investigators with their account of the alleged misconduct and have that account be on the record.
- The right to request that the Investigators/Decision-Makers identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigators/Decision-Makers with a list of questions that, if deemed relevant by the Investigators/Decision-Makers, may be asked of any party or witness.
- The right to receive a copy of the Investigative Report, with information and evidence potentially redacted due to reasonable concerns by the Title IX Coordinator, or Deputy Coordinators if applicable.
- The right to have five (5) business days to review the Final Investigative Report prior to the hearing. [Process A]

- The right to respond to the Final Investigative Report, including comments providing any additional relevant evidence after the opportunity to review the Final Investigative Report, and to have that response on the record.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any hearing. [Process A]
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant and not otherwise impermissible evidence.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the grievance process and a detailed rationale of the decision, delivered simultaneously and without undue delay to the parties.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

21. RIGHT TO AN ADVISOR

The Complainant and Respondent may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the grievance process, if they so choose.

The parties must provide the name of their chosen Advisor to the Title IX Coordinator via email at the appropriate individual's University email address at least two (2) business days prior to any meeting, interview, proceeding, or hearing in which they desire the Advisor to be present.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time.

a) Who Can Serve as an Advisor

The parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available and is not a witness in the matter (unless the matter involves a sexual assault, dating or domestic violence, or stalking, in which case the witness may serve as an Advisor). Anyone who does not have a designated or assigned role in the grievance process at hand is eligible to serve as an Advisor. Chosen Advisors must have reasonable inclination, time, and availability to serve in the role.

The Advisor may be a friend, mentor, family member, professor, staff member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the University community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the University, the Advisor will be trained by the University and be familiar with the University's grievance processes.

If the parties choose an Advisor from outside the pool of those identified by the University,

the Advisor may not have been trained by the University and may not be familiar with University policies and procedures. In such case, the Title IX Coordinator will provide this Policy to the Advisor so that the Advisor can carefully review it and ask any questions in advance.

Parties also have the right to choose not to have an Advisor in the initial stages of the grievance process, prior to a hearing in Process A, and have the right to choose not to have an Advisor at any stage of the grievance process in Process B.

b) The Advisor's Role

The Complainant and Respondent may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and investigation interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The University cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, the University is not obligated to provide the other party with an attorney.

During any meetings and interviews that occur in Process A or Process B, the role of the Advisor is for support and private consultation; their participation will be limited to consulting privately with their advisee. An advisor may speak privately to their Advisee, but an Advisor may not participate directly in any meeting, interview, or proceeding. Advisors should not address University officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their Advisee during any meeting or proceeding and may not speak on behalf of the advisee. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

For allegations of sex-based harassment falling within the 2024 Title IX regulations, cross-examination is required in Process A during the live hearing, which must be conducted by the Decision-Maker. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the purpose of supporting the party.

Advisors may request to meet with the Title IX Coordinator in advance of any interview or meeting. This pre-meeting allows Advisors to clarify and understand their role and the University's policies and procedures.

All Advisors are subject to the expectations outlined in this Policy, whether they are attorneys or not. Advisors are expected to advise their Advisees without disrupting proceedings. Any Advisor who oversteps their role as defined by this Policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role after the first warning, the meeting or hearing will be ended, or other appropriate measures will be implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and potential future role in the proceedings.

The University generally expects an Advisor to adjust their schedule to allow them to attend meetings when planned but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available. Advisors should be readily available for the required hearing.

[c\) Sharing Information and Privacy of Records with an Advisor](#)

Parties may wish to have the University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor. Doing so may help the parties participate more meaningfully in the grievance process.

The University also provides a consent form that authorizes the University to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before the University is able to share records with an Advisor. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured.

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with anyone else or disclosed publicly. Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). The University may decline to share materials with any Advisor who has not executed the NDA. The University may restrict the role of or dismiss any Advisor who does not respect the sensitive nature of the process or who fails to abide by the University's confidentiality expectations.

[22. INFORMAL RESOLUTION OPTIONS](#)

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator or Deputy Coordinator, if applicable, at any time prior to a final determination, or the Title IX Coordinator may offer the option to the parties, in writing. The University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

It is not necessary to pursue Informal Resolution first in order to pursue the formal grievance process. Any party participating in Informal Resolution can withdraw from the Informal Resolution process at any time and initiate the formal grievance process.

If an investigation is already underway, the Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

[Categories of Informal Resolution](#)

a) Supportive Resolution

The Title IX Coordinator and/or appropriate Deputy Coordinator may also implement remedial actions to ensure that policies and expectations are clear and to minimize the risk of recurrence of any behaviors that may not align with Policy.

b) Accepted Responsibility

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the formal grievance process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title IX Coordinator will determine whether all Parties and the University are able to agree on responsibility, restrictions, sanctions, and/or restorative measures. If all Parties and the University agree, the Title IX Coordinator implements agreed-upon restrictions and remedies, and determines the appropriate responses in coordination with other appropriate University officials, as necessary.

This Informal Resolution is not subject to appeal once all parties indicate their written agreement to all resolution terms. When the parties cannot agree on all terms of resolution, the Informal Resolution process will either continue or a Formal Grievance process may initiate.

When a resolution is reached, the appropriate sanction(s) or resolutions are promptly implemented to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the misconduct, both on the Complainant and the community, as applicable.

c) Alternative Resolution

The University offers a variety of Alternative Resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative Resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction with the Respondent(s); indirect action by the Title IX Coordinator or other appropriate University officials; and other forms of resolution that can be tailored to the needs of the Parties. Some Alternative Resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an Alternative Resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an Alternative Resolution process.

The Title IX Coordinator has the authority to determine whether Alternative Resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the Alternative Resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the University's compliance obligations in addition to the Alternative Resolution.

The Title IX Coordinator maintains records of any resolution that is reached. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the Agreement and resumption of the resolution process, referral to the conduct process for failure to comply, application of the enforcement terms of the Alternative Resolution agreement, etc.). The results of complaints resolved by Alternative Resolution are not appealable.

If an Informal Resolution option is not available or selected, the University will initiate or continue an investigation and subsequent resolution process to determine whether the Policy has been violated.

23. FORMAL GRIEVANCE PROCESS POOL

The Formal Grievance Processes (Process A and Process B) rely on a pool of trained employees and experienced external consultants to carry out the processes. Members are appointed by the Title IX Coordinator.

Beyond the Title IX Coordinator and Deputy Coordinators who oversee and coordinate the Formal Grievance Processes (and, in the case of the Deputy Coordinators, can serve as Investigators), a pool of University employees (Pool) are trained to serve as Investigators and Decision-Makers and may also serve as an Advisor to a Complainant or Respondent in a Formal Grievance Process to which they are not assigned as an Investigator or Decision-Maker. An external third-party focused on Title IX work may provide trained professionals to serve as needed to be an Investigator and/or Decision-Maker presiding over a hearing as required in Process A. Generally, the Vice President for Student Affairs serves as the Appellate Decision-Maker for all cases that involve a student as the Respondent.

All members of the Pool are trained annually on the following: how to interpret and implement this Policy; related laws, regulations, and regulatory guidance; how to conduct an investigation and grievance process including hearings, appeals, and Informal Resolution processes (as applicable); and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Investigators also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Meetings and training occur at various points throughout the year and include training offered by internal administrators and external third-parties or community partners.

24. APPOINTMENT OF INVESTIGATORS

Typically, within seven (7) calendar days after the decision to commence a Formal Grievance Procedure is made, the Title IX Coordinator will appoint Pool members to conduct the investigation.

When the Respondent is a student, two Investigators will be appointed from the Pool of trained Investigators by the Title IX Coordinator. When the Respondent is a faculty member, the Title IX Deputy Coordinator for Faculty or a designee will serve as an Investigator with a second

Investigator from the Pool. When the Respondent is a staff member, the Title IX Deputy Coordinator for Staff or a designee will serve as an Investigator with a second Investigator from the Pool.

25. CONFLICT OF INTEREST

The University requires any individual participating in the investigation, decision-making, sanctioning, appeal, or other resolution of complaints under this Policy to disclose any potential or actual conflicts of interest or bias for a party generally, or for a specific Complainant or Respondent. The Title IX Coordinator will vet the assigned Investigator(s) for conflicts of interest or disqualifying biases.

The Complainant and Respondent will both receive notice of the individuals assigned as Investigators, Decision-Makers, or other individuals with authority to determine a finding or impose a sanction before those individuals initiate contact with either party. If either the Complainant or Respondent believes anyone involved in the investigation, sanctioning, appeal, or resolution process has a bias or conflict of interest, the party should notify the Title IX Coordinator within three (3) business days of receiving notice of the name of the individual participating in the process and request a substitution of that individual.

Additionally, the parties may, at any time during the Formal Grievance Process, raise a concern regarding a demonstrated bias or actual conflict of interest and provide notice to the Title IX Coordinator. This notice to the Title IX Coordinator must include a description of the concern. If it is determined that demonstrated bias or an actual conflict of interest does exist, the University will take steps to address the concern as appropriate to maintain an impartial process. To raise any concern involving bias, conflict of interest, or discrimination by the Title IX Coordinator, contact the Vice President for Student Affairs with the concern.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent did or did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The University operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof (preponderance of the evidence).

26. NOTICE OF INVESTIGATION

When a Formal Grievance Process is initiated, the Title IX Coordinator will meet with the Complainant and Respondent individually to provide an overview of the process and inform them of their rights, and a Notice of Investigation and Allegations will be sent in writing to both parties via their Elmhurst University email addresses. Once emailed, notice will be presumptively delivered.

In the Notice of Investigation and Allegations, the Complainant and Respondent shall receive notice of the following:

- A summary of the allegations, the alleged violations of sex discrimination as defined in Section 4 or other relevant University policies, and sufficient details regarding the alleged violations (parties involved, specific conduct, and date and location of incident, if known).
- A description of the University's Formal Grievance Process.
- A statement of the potential sanctions or outcomes that could result from the process.
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until a determination regarding responsibility is made at the conclusion of the Formal Grievance Process.
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to review the Final Investigative Report (including the evidence relied upon therein) before such report is finalized for the live hearing.
- A statement that any forms of retaliation are prohibited.
- Information about the privacy of the process.
- The right to have an Advisor of their choice who may act in accordance with the description provided in Section 22.
- For students, the prohibition of submitting false, misleading, or incomplete information to the University as defined under the applicable Student Handbook.
- Information on how the party may request disability accommodations during the investigation process.
- An attachment of the University's applicable Non-Discrimination and Non-Harassment policy.
- Instructions to preserve any evidence that is directly related to the allegations.

No disciplinary sanctions or other actions that are not supportive or emergency or safety measures will be taken against the Respondent prior to the determination of any finding of responsibility of a violation of this Policy.

Amendments and updates to the Notice of Investigation and Allegations may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various reported policy violations.

27. STANDARD OF EVIDENCE

The standard used to determine whether the Non-Discrimination and Non-Harassment Policy has been violated is the **preponderance of the evidence standard**, meaning whether it is more likely than not that the Respondent has violated the Policy based on all relevant information collected during the Formal Grievance Process. This standard applies to employees and students who participate in a Formal Grievance Process (Process A or Process B).

28. STEPS IN THE INVESTIGATION PROCESS

All investigations are impartial, prompt, and fair. Investigations involve conducting interviews with all relevant parties and witnesses, obtaining available and relevant evidence, and identifying sources of relevant information, as necessary.

Through the investigation process, all parties have a full and fair opportunity to suggest witnesses and questions, to provide evidence and expert witnesses, and to review and respond to the Final Investigative Report prior to the live hearing.

The University will maintain documentation of the investigation and will record any interviews that occur as part of an investigation. The Investigators shall record interviews and have them transcribed to ensure the greatest degree of accuracy in the interview process. Parties and witnesses are not permitted to record such interviews or any meetings. Parties and witnesses will be made aware of and will be asked to consent to audio and/or video recording prior to it occurring.

The Investigators typically take the following steps (not necessarily in this order):

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
- Interview the Complainant, Respondent, and any witnesses. Interviews will generally take place in person, but arrangements can be made with the Title IX Coordinator or Deputy Coordinator's approval for interviews to occur by phone, video conferencing, or other electronic means. The Complainant and Respondent should expect follow-up interviews as needed.
- Complete an objective evaluation of all relevant evidence, including both inculpatory (used to prove responsibility for a policy violation) and exculpatory (used to prove non-responsibility for a policy violation) evidence.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose, via their Elmhurst University email address.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Allow each party the opportunity to suggest witnesses with relevant information. The Investigators will determine whether to interview such witnesses, and may question other witnesses that neither party has identified.
- Complete the investigation promptly and as effectively as manageable under the circumstances of each matter.
- Provide regular status updates to the parties throughout the investigation.
- Write a comprehensive Investigative Report fully summarizing the investigation, all party and witness interviews, and all relevant evidence with appendices including relevant physical or documentary evidence.
- Provide the Parties and their respective Advisors an electronic copy of the draft Investigative Report as well as an opportunity to inspect and review all relevant evidence obtained as part of the investigation for a review and comment period of ten (10) business days so that each party may meaningfully respond to the evidence. The Parties may elect to waive all or part of the review period.
- The Investigators may elect to respond in writing in the Investigative Report to the parties' submitted responses.
- The Investigators will incorporate relevant elements of the parties' written responses into the Investigative Report, include any additional relevant evidence, and make any necessary revisions. The Investigators should document all rationales for any changes made after the review and comment period.
- The Investigators will share the Investigative Report with the Title IX Coordinator for review and feedback on the process and Policy requirements.

The Investigative Report will summarize the relevant evidence and outline the information discovered in the investigation. At a minimum, it will contain the following:

- A list of all parties and witnesses who were interviewed and submitted evidence.
- A timeline of the major steps of the investigation process.
- The alleged policy violations within the applicable Non-Discrimination and Non-Harassment Policy and/or other University policy (which may be amended from the alleged violations in the Notice of Investigation and Allegations to include any new policy violations discovered in the course of the investigation).
- Summaries of interviews with the Complainant, Respondent, and witnesses.
- A presentation of facts and analysis of contested and uncontested facts.
- An appendix containing relevant information collected, including any evidence obtained or submitted as part of the investigation, electronic records, written statements, photographs, or other documentation, redacted as needed by the Title IX Coordinator.

Respondents are required to cooperate with and participate in the investigation but are not required to participate in the Informal Resolution process. Failure of a Respondent to cooperate with and participate in the investigation generally constitutes a violation of University policy and may warrant discipline up to and including suspension or termination for employees and suspension or expulsion for students.

29. EXPECTATIONS REGARDING EVIDENCE

The University will take appropriate measures to preserve any evidence, and the parties are expected to do the same. All parties are expected to provide as much information as possible to the Investigators in connection with the investigation.

The investigation will not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. This can include, but is not limited to, information that is held between an attorney and their client or a party's medical records held by a care providing physician, psychiatrist, psychologist, or other health or medical professional, as well as interactions with the Rape Crisis Center Confidential Advisors and/or counselors. Should a party wish to allow such information to be made available during an investigation, the party must provide voluntary, written consent to the Title IX Coordinator for the use of such records.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation may be subject to discipline under University policy.

30. WITNESS PARTICIPATION

Witnesses (as distinguished from the parties) who are employees of the University are required to cooperate with and participate in the investigation and resolution process. Failure of such employee witnesses to cooperate with and/or participate in the investigation or resolution process generally constitutes a violation of University policy and may warrant discipline up to and including suspension or termination. The Title IX Office is mindful that employees fear retaliation and will remind employees to report potential retaliation connected to witness participation to the Title IX

Coordinator, as well as to the Director of Human Resources. Student witnesses and witnesses from outside the University community cannot be required to participate but are encouraged to cooperate with University investigations and to share what they know about a Complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Video or audio-conferencing technologies may be used for interviews if the Investigators determine that timeliness or efficiency dictate a need for remote interviewing. The University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

31. RESOLUTION THROUGH PROCESS A

Process A is a method of formal resolution designated by the University to address conduct related to sex discrimination and retaliation and which complies with the requirements of the 2024 Title IX regulations. This procedure is limited to all allegations of sex-based harassment involving a student as a party, regardless of the status of the other party.

After the Investigators have shared the Investigative Report with the Title IX Coordinator in a Process A matter, the Investigators will incorporate any relevant feedback from the Title IX Coordinator, and the Investigative Report becomes the Final Investigative Report. The Final Investigative Report is returned to the Title IX Coordinator to be shared with the parties for their review no less than ten (10) business days before a scheduled live hearing. Hearings will usually be online and remote.

Provided that the Complaint is not resolved through Informal Resolution, once the Final Investigative Report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing. The Title IX Coordinator will designate a single Decision-Maker from the Pool to act as the Decision-Maker. The Decision-Maker will not have had any previous relevant involvement with the investigation, as determined by the Title IX Coordinator.

The Decision-Maker cannot be the same person as the Title IX Coordinator, Deputy Coordinator, Investigator (who may be called as witnesses in the hearing), or Advisor for any party. The Title IX Coordinator or Deputy Coordinator may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Decision-Maker in conjunction with the Title IX Coordinator

The hearing cannot be scheduled to occur less than ten (10) calendar days from the conclusion of the investigation—when the Final Investigative Report is transmitted to the parties and the Decision-Maker.

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the University may hear the allegations jointly. The Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation. In the alternative, a global investigation may take place with

separate Investigative Reports and hearings. In short, the Title IX Coordinator shall make any decisions about how to move forward with complex cases, and will provide written notice to the parties on any such determination.

a) Evidentiary Considerations

Any evidence that the Decision-Maker determines is relevant and credible may be considered. The hearing will not consider questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or 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.

The existence of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent or preclude a determination that sex-based discrimination occurred.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility/non-responsibility. This information is only considered at the sanction stage of the process and is not shared until then, unless presented as evidence of a pattern.

After post-hearing deliberation, the Decision-Maker renders a determination based on the preponderance of the evidence. Each alleged policy violation will result in a finding of "responsible" (it is more likely than not that the Respondent did violate the Policy) or "not responsible" (it is more likely than not that the Respondent did not violate the Policy).

b) Notice of Hearing

No less than ten (10) calendar days prior to the hearing, the Title IX Coordinator will send a Notice of Hearing (NOH) to the Complainant and Respondent. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The NOH will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The date and time of the in-person or online remote hearing and a reminder that attendance is mandatory.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-Maker and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) calendar days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-Maker on the basis of potential bias. This must be raised with the Title IX Coordinator at least two (2) calendar days prior to the hearing.

- Information about how the hearing will be recorded.
- For compelling reasons, the Title IX Coordinator or Hearing Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present. The party must notify the Title IX Coordinator at least two (2) calendar days prior to the hearing if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present.
- A copy of all the materials provided to the Decision-Maker about the matter, unless they have been provided already, including the Final Investigative Report.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) calendar days prior to the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 60-90 business day goal for resolution.

c) Pre-Hearing Preparation

As outlined in Section 32.b., the Title IX Coordinator will provide the Notice of Hearing and the Final Investigative Report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigators, unless all parties and the Decision-Maker assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Decision-Maker do not agree to the admission of evidence newly offered at the hearing, the Decision-Maker may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The Title IX Coordinator will give the Decision-Maker a list of the names of all parties, witnesses, and Advisors at least five (5) calendar days in advance of the hearing. Any Decision-Maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-Maker is unsure as to whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the five (5) calendar day period prior to the hearing, the parties have the opportunity for continued review and comment on the Final Investigative Report and available evidence. That review and comment can be shared with the Decision-Maker at a pre-hearing meeting or at the hearing and will be exchanged between each party by the Decision-Maker.

d) Pre-Hearing Meetings

The Decision-Maker may convene an individual pre-hearing meeting with the Complainant and Respondent and their Advisors to invite them to submit the questions or topics they wish to be asked at the hearing, so that the Decision-Maker can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. The Decision-Maker may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigators in the Final Investigative Report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Decision-Maker will consider the party's arguments that evidence identified in the Final Investigative Report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigators may be argued to be relevant. The Decision-Maker may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Decision-Maker may communicate with the Title IX Coordinator regarding pre-hearing meetings.

e) Hearing Procedures

At the hearing, the Decision-Maker has the authority to hear and make determinations on all allegations of sex discrimination and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sex discrimination and/or retaliation, even though those collateral allegations may not specifically fall within this Policy, if those collateral allegations were part of the Notice of Investigation. The Decision-Maker will ask all questions of the parties and witnesses, i.e., the Advisors and parties will not engage in cross-examination questions.

Participants at the hearing will include the Decision-Maker, the Investigators who conducted the investigation, the Complainant and Respondent, Advisors to the parties, any called witnesses, the Title IX Coordinator (who may or may not serve as a hearing facilitator) and anyone providing authorized supportive measures or assistive services. The hearing facilitator may attend to logistics of rooms for various parties/witnesses as they wait; the flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

The Decision-Maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf. The Decision-Maker will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-Makers and will then be excused.

The hearing will proceed with the following components:

- The Decision-Maker will provide an explanation of the procedures and introduction of participants.
- The Investigators will provide a summary of the Final Investigative Report, including items that are contested and those that are not, and will be subject to questioning by the

Decision-Maker.

- The Complainant and Respondent will each submit to questioning by the Decision-Maker. The parties will have had the opportunity to submit proposed questions for the other party to the Decision-Maker prior to the hearing, as described above.
- Invited witnesses will submit to questioning by the Decision-Maker. The parties will have had the opportunity to submit proposed questions for the witnesses to the Decision-Maker prior to the hearing, as described above.
- The Decision-Maker will provide an opportunity for final statements by the Complainant and Respondent and will conclude the hearing.

f) Questioning and Testimony

If either party raises an issue of demonstrated bias or actual conflict of interest of an Investigator at the hearing, the Decision-Maker may elect to address those issues, consult with legal counsel, refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-Maker should not permit irrelevant questions that probe for bias.

Additional rules and guidelines regarding questioning during the hearing may be provided by the Title IX Coordinator and/or Decision-Maker to the parties and their Advisors prior to the hearing. If a party refuses to comply with the University's established rules of decorum for the hearing, the Decision-Maker may reschedule the hearing.

g) Advisor Conduct

If a party's Advisor refuses to comply with the University's established rules of decorum for the hearing, the Decision-Maker may require the party to use a different Advisor. If a University-provided Advisor refuses to comply with the rules of decorum, the University may provide that party with a different Advisor. In either case, the Decision-Maker may cease the hearing immediately and reschedule it after a new Advisor is appointed and up to speed for the hearing obligations.

h) Recording of Interviews and Hearings

It is standard practice for Investigators to create record of all interviews pertaining to the Resolution process (other than Informal Resolution meetings). The parties may review copies of their own interviews, upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If an Investigator(s) elects to audio and/or video record interviews, all involved individuals should be made aware of audio and/or video recording.

Access to the hearing recording (but not a copy of the recording) will be made available to both parties within five (5) calendar days after the conclusion of the hearing. Parties may request access to view the recording from the Title IX Coordinator within the time period to submit an appeal. In the event that an audio or audiovisual recording is shared, the recording will only be made available at an in-person and monitored meeting on campus, and will not otherwise be transmitted for review, so as to maintain the privacy of those participating in the process. The privacy of the hearing is paramount, and the parties are expected to maintain the privacy to the greatest extent possible.

i) Decision-Making

The Decision-Maker will determine whether the Respondent is responsible or not responsible for the conduct as alleged, and whether University policy was violated. The preponderance of the evidence standard is used to make determinations of responsibility. The Decision-Maker's determination process typically takes approximately ten (10) business days, but this timeframe can vary based on a number of factors and variables. The parties will be notified of any delays.

j) Notice of Outcome

The Decision-Maker will then prepare a written determination of responsibility ("Notice of Outcome") and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of his/her/their determination, credibility assessments, and any sanctions or other remedies.

The Notice of Outcome will:

- Identify the allegations potentially constituting sex discrimination;
- Articulate the specific policies reported to have been violated, including the relevant policy section; and
- Provide a summary of the procedural steps taken by the University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

Additionally, the Notice of Outcome will specify:

- The finding on each alleged policy violation;
- The findings of fact that support the determination;
- Conclusions regarding the application of the relevant policy to the facts at issue; and
- A statement of, and rationale for, the result of each allegation, including a determination regarding responsibility, any disciplinary sanctions issued to the Respondent, and whether remedies designed to restore or preserve access to the University's educational or employment program or activity will be provided to the Complainant. Typically, details regarding the remedies provided to the Complainant are not shared with the Respondent unless the remedy directly relates to the Respondent. Results of each allegation will be shared to the extent the University is permitted to share such information under state or federal law.

The Notice of Outcome will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options as outlined in Section 36.

The Title IX Coordinator will issue the Notice of Outcome to the parties simultaneously within ten (10) calendar days of receiving the Notice of Outcome. The Notice of Outcome will be shared via the parties' Elmhurst University email addresses. Once emailed, notice will be presumptively delivered.

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-Maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would also waive all rights to appeal for the Respondent. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution process continues to its conclusion.

32. RESOLUTION THROUGH PROCESS B

Process B is a method of formal resolution designated by the University to address conduct related to sex discrimination and retaliation that does not meet the standards required for Process A or to address conduct that is related to forms of discrimination or harassment not based on sex. In a Process B matter, after the Investigators have shared the Investigative Report with the Title IX Coordinator, the Investigators will incorporate any relevant feedback from the Title IX Coordinator.

When the **Respondent is a student**, the Investigators will amend the Investigative Report to become a Final Investigative Report that includes their findings, using the preponderance of the evidence standard, regarding outcomes related to each of the alleged violations of the Non-Discrimination and Non-Harassment Policy or any other University policy. Each alleged policy violation will result in an outcome of “responsible” (it is more likely than not that the Respondent *did* violate policy) or “not responsible” (it is more likely than not that the Respondent *did not* violate policy).

Within five (5) business days of the Investigators determining the findings, the Investigators will provide the Final Investigative Report to the appropriate Vice President, or their designee, to assign sanctions if there are findings of responsibility. The same Vice President, or their designee, will take no more than five (5) business days to determine sanctions and may extend the time period for rendering a sanction, as long as both parties receive notice and a reason for the extension. The Investigators will then notify the Complainant and Respondent, simultaneously and in writing via their Elmhurst University email addresses, of the outcome via the Notice of Outcome letter. Once emailed, notice will be presumptively delivered. The Title IX Coordinator will also receive a copy of the Notice of Outcome letter.

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-Maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would also waive all rights to appeal for the Respondent. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the resolution process continues to its conclusion.

In cases where the **Respondent is a faculty member**, the Title IX Deputy Coordinator for Faculty and the second Investigator will amend the Investigative Report to become a Final Investigative Report that includes their findings, using the preponderance of the evidence standard, regarding outcomes related to each of the alleged violations of the Non-Discrimination and Non-Harassment Policy or the other University policy. Each alleged policy violation will result in an outcome of “responsible” (it is more likely than not that the Respondent *did* violate policy) or “not responsible” (it is more likely than not that the Respondent *did not* violate policy).

Within five (5) business days of determining the findings, the Deputy Coordinator will determine sanctions for any findings of responsibility. They may extend the time period for rendering a sanction, as long as both parties receive notice and a reason for the extension. The Deputy Coordinator will then notify the Complainant and Respondent, simultaneously and in writing via their Elmhurst University email addresses, of the outcome via the Notice of Outcome letter. Once emailed, notice will be presumptively delivered. The Title IX Coordinator will also receive a copy of the Notice of Outcome letter.

In cases where the **Respondent is a staff member**, the Title IX Deputy Coordinator for Staff and the second Investigator will amend the Investigative Report to become a Final Investigative Report that includes their findings, using the preponderance of the evidence standard, regarding outcomes related to each of the alleged violations of the Non-Discrimination and Non-Harassment Policy or the other University policy. Each alleged policy violation will result in an outcome of “responsible” (it is more likely than not that the Respondent *did* violate policy) or “not responsible” (it is more likely than not that the Respondent *did not* violate policy).

Within five (5) business days of determining the findings, the Deputy Coordinator will determine sanctions for any findings of responsibility. They may extend the time period for rendering a sanction, as long as both parties receive notice and a reason for the extension. The Deputy Coordinator will then notify the Complainant and Respondent, simultaneously and in writing via their Elmhurst University email addresses, of the outcome via the Notice of Outcome letter. Once emailed, notice will be presumptively delivered. The Title IX Coordinator will also receive a copy of the Notice of Outcome letter.

Regardless of the status of the Respondent, the Notice of Outcome letter will:

- Identify the allegations potentially constituting a violation; and
- Articulate the specific policies reported to have been violated, including the relevant policy section.
- Share the finding on each alleged policy violation;
- Include conclusions regarding the application of the relevant policy to the facts at issue; and;
- Provide a determination regarding responsibility.
- If needed, include any disciplinary sanctions issued to the Respondent to only the Respondent for privacy reasons.

The Notice of Outcome will also include the bases for any available appeal options as outlined in Section 36.

33. SANCTIONS AND REMEDIES

Factors considered when determining sanctions and remedies under either Process A or B may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s).
- The Respondent’s disciplinary history.
- Previous allegations or allegations involving similar conduct by the Respondent.
- The need for sanctions and/or remedies to bring an end to or prevent the future recurrence of the sex discrimination, harassment, discrimination, and/or retaliation.

- The need to remedy the effects of sex discrimination, harassment, discrimination, and/or retaliation on the Complainant and the community.
- The impact on the parties.
- Any other information deemed relevant in determining sanctions/remedies.

The sanctions and remedies will be implemented by the Title IX Coordinator as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

All Respondents are expected to comply with the assigned sanctions and remedies of which they are informed within the timeframe specified by the Decision-Maker, Investigators, Deputy Coordinators, or Appellate Decision-Maker. Failure to abide by the sanctions imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/actions, including new disciplinary proceedings, suspension, expulsion, and/or termination from the University.

The sanctions and remedies described in this Policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

a) Student Sanctions

Sanctions assigned to students for violating the Non-Discrimination and Non-Harassment Policy include:

- *Written Warning*: An official notice to a student that their behavior was inappropriate and violated the Code of Conduct, Housing and Residence Life Policies, Non-Discrimination and Non-Harassment Policy, or another relevant University policy.
- *Educational Assignments or Training*: These are designed to encourage students to reflect upon their behavior; learn about specific topics that relate to their previous behavior; identify harm made to self, another person and/or the community; and explore how they could change their behavior in the future. Educational Assignments or Training may include completion of reflection assignments, educational papers, bulletin boards, workshops, online training courses, campus involvement challenges, counseling services or workshops, or other event attendance.
- *Meeting with a University Administrator*: Students may be asked to meet with a University administrator either one time or on a regular basis to establish constructive connections to the University and to identify academic, co-curricular, and personal goals to be a positive member of the campus community.
- *AOD Care Meeting*: In instances where a student is found responsible for severe alcohol intoxication or impairment from other drug use resulting in concern for a student's wellbeing that requires medical transport, students may be asked to attend an Alcohol and Other Drug (AOD) Care Meeting with a designated Staff Clinician in Counseling Services. The purpose of this meeting is for the student to reflect upon their prior alcohol or other drug use and identify strategies to modify future use.
- *Loss of Privileges*: Students who have been found responsible for a violation of University policy may temporarily or permanently lose certain privileges that are otherwise afforded to them. Examples include restrictions on guests in on-campus

- housing and on access to certain campus facilities, programs, or services (such as the shuttle, specific residence halls, fitness center, etc. or losing parking privileges, the ability to participate in or hold leadership positions in certain student organizations or activities, loss of student employment, etc.). In some cases, a student may be reassigned to a different housing assignment as part of this sanction or may not be permitted to represent the University in student leadership opportunities, athletic events, or other co-curricular involvement.
- *Fines*: Monetary costs intended to deter students from violating University policies and are charged to a student's account with the University.
 - *Restitution*: Monetary compensation required of students who have damaged, destroyed, misused, or stolen University, public or private property. The amount charged to a student's University account is commensurate to the cost to repair, replace, clean, or otherwise account for the property affected.
 - *Housing Probation*: Housing probation is a formal notice that a student's behavior or repeat behavior has been detrimental to themselves or the residential community. During the housing probation period, which is minimally one semester but can last up to two years, a student is expected to demonstrate behavior that aligns with the University's mission and values and upholds community standards of the University. Continued misconduct during the probation period may result in removal from housing.
 - *Removal from Housing*: Requires a student to vacate their assigned residence hall room, apartment, or house by a specified date and time and return all University-issued keys and access cards. Removal from housing can be for a specified length of time or may be a permanent removal and can include revocation of access to all University residential facilities.
 - *University Probation*: Probation is a formal notice that a student's behavior or repeat behavior has been detrimental to themselves or the University community. During the probation period, which is minimally one semester but can last until graduation, a student is expected to demonstrate behavior that aligns with the University's mission and values and upholds community standards of the University. Continued misconduct during the probation period may result in suspension or expulsion from the University. Students on probation may not study away during their probation period.
 - *Suspension*: University suspension involves the temporary separation of a student from the University for a specified period of time not to exceed two years, with the understanding that the student may return to the University in good standing at the completion of the suspension period after meeting any other conditions of the suspension. A suspended student may not participate in courses, activities, campus employment, or any other privileges typically afforded to an enrolled student. A suspended student may be expected to meet with the Title IX Coordinator or their designee to request reinstatement and have holds removed on their student account to re-enroll for courses.
 - *Expulsion/Dismissal*: Dismissal from the University, commonly known as expulsion, means permanent termination of student status at the University. Expulsion may include forfeiture of all rights and degrees not actually conferred at the time of dismissal; permanent notation of the dismissal on the student's disciplinary record;

withdrawal from all courses; and forfeiture of tuition and fees. An expelled student may not access any University property without express permission obtained in advance from the Title IX Coordinator or the Executive Director of Public Safety and Emergency Management.

- *Withholding Diploma:* The University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for violating Policy.
- *Revocation of Degree:* While very rarely employed, the University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Other Actions:* In addition to, or in place of, the above sanctions, the University may assign any other sanctions as deemed appropriate.

b) Student Group and Organization Sanctions

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

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation:* An official sanction for violation of University Policy, providing for more severe disciplinary sanctions in the event that the group or organization is found in violation of any policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of University funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student group or organization recognition and/or University support for a definite period of time not to exceed two years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in University-related activities, whether they occur on- or off-campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from the University.
- *Expulsion:* Permanent termination of student group organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason.
- *Loss of Privileges:* Restricted from accessing specific University privileges for a specified period of time.
- *Other Actions:* In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

c) Sanctions for Employees

Sanctions/remedies assigned to faculty or staff for violating the Non-Discrimination and Non-Harassment Policy include:

- *Verbal or written warning*
- *Performance Improvement Plan*
- *Enhanced supervision, observation, or review procedures*
- *Required counseling or professional coaching*
- *Required training or education*
- *Probation*
- *Denial of future pay increases*
- *Loss of oversight or supervisory responsibility*
- *Demotion, transfer, or reassignment*
- *Shift or schedule adjustments*
- *Delay of (or referral for delay of) tenure track progress*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension/Administrative Leave with pay*
- *Suspension/Administrative Leave without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, the University may assign any other responsive actions as deemed appropriate.

Sanctions and remedies for employees are carried out in accordance with Human Resources and Academic Affairs policies and procedures.

d) Remedies

Remedies are provided to the Complainant and are designed to restore or preserve their equal access to the University's education or employment program or activity. Remedies may be the same individualized services as described in Section 13 as supportive measures. However, remedies do not need to be non-disciplinary or non-punitive and do not need to avoid burdening the Respondent.

Remedies at the level of the University may include, but are not limited to, providing and/or requiring counseling and training, developing educational materials and other programming for the campus community, implementing revised policies and procedures, and undertaking climate surveys and other mechanisms to identify and address patterns of violations.

34. WITHDRAWAL OR RESIGNATION IN A FORMAL GRIEVANCE PROCESS

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University, the resolution process ends, as the University no longer has disciplinary jurisdiction over the withdrawn student. However, the University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sex discrimination and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University. A hold will be placed on their ability to be readmitted. They may also be issued a no trespass order from the University.

If the student Respondent takes a leave of absence for a specified period of time (e.g., one semester or term), the resolution process may continue remotely, and that student is not permitted to return to the University unless and until cleared in writing by the Title IX Coordinator.

If an employee Respondent resigns from the University with unresolved allegations pending, the resolution process may continue, or Title IX Coordinator may exercise their discretion to dismiss the Complaint. If the Complaint is dismissed, the University may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged discrimination, harassment, and/or retaliation.

When an employee resigns and the Complaint is dismissed, the employee may not return to the University in any capacity. Human resources, the Registrar, and Admission will be notified, accordingly, and a note will be placed in the employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with the University. The records retained by the Title IX Coordinator will reflect that status.

35. APPEAL PROCESS

Both the Complainant and Respondent may file a Request for Appeal, which must be submitted in writing to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome.

Generally, when the Respondent is a student, the Appellate Officer is the Vice President for Student Affairs. Generally, when the Respondent is an employee, the Appellate Officer is the Vice President for Business and Finance. The Appellate Officer will not have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process. Should the designated Appellate Officer have a conflict of interest, a different Appellate Officer will receive the appeal.

The Request for Appeal will be forwarded to the Appellate Officer for consideration to determine if the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

a) Grounds for Appeal and Appeal Procedures

Parties may appeal a determination regarding responsibility provided in the Notice of Outcome or the University's dismissal of a Complaint or any allegations therein exclusively and solely on one or more of the following grounds:

- A procedural irregularity that would change the outcome.
- New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility or dismissal was made.
- The Title IX Coordinator, Investigator(s), or Decision-Maker had an actual conflict of interest or demonstrated bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that would change the outcome.

- The final determination by the Decision-Maker is substantially contrary to the weight of the evidence in the record (applicable to sanctions of suspension, expulsion, or termination, only).
- The sanctions fall outside the range of sanctions designated for this offense, considering the cumulative conduct/disciplinary record of the Respondent (applicable to sanctions of suspension, expulsion, or termination, only).

If any of the grounds in the Request for Appeal do not meet the grounds listed in this Policy, that request will be denied by the Appellate Officer and the parties and their Advisors will be notified in writing via email of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the listed grounds in this Policy, then the Appellate Officer will notify the other party and their Advisor, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-Maker.

The other party and their Advisor, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-Maker will be emailed and/or provided a hard copy of the request with the approved grounds and then be given three (3) business days to submit a response to the portion of the appeal that was approved and involves them. The responding party is not required to respond, and a decision not to respond shall not be considered as evidence that the responding party agrees with the filed appeal. All responses will be forwarded by the Appellate Officer to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new basis for appeal at this time. If so, that will be reviewed to determine if it meets the requirements in this Policy by the Appellate Officer and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, the Investigators and/or original Decision-Maker as necessary, who will submit their responses in three (3) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appellate Officer will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses. The Appellate Officer will render a decision in three (3) business days, barring other circumstances.

A Notice of Appeal Outcome will be sent to all parties simultaneously via their Elmhurst University email addresses and may be delivered in person including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. Once emailed and/or received in-person, notice will be presumptively delivered.

b) Sanction Status During the Appeal

Any sanctions imposed as a result of the Decision-Maker's Notice of Outcome after the hearing are placed on hold during the appeal process if an appeal is granted by the Title IX Coordinator. Supportive measures may be reinstated, subject to the same supportive measure procedures outlined in Section 13.

On a case-by-case basis, the University may hold on transcripts and/or diplomas for students, as well as issue a hold on registration for a returning student, pending resolution of any sanction appeal. If the University determines that an emergency removal is warranted during an appeal that is granted review, the emergency removal procedures outlined in this Policy should be followed.

c) Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanctions/remedies only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-investigation or re-hearing of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for an Appellate Officer to substitute their judgment for that of the original Decision-Maker merely because they disagree with the finding(s) and/or sanction(s).
- The Appellate Officer may communicate with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed.
- Appeals granted based on new evidence should normally be remanded to the original Investigators and/or Decision-Maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator.
- Once an appeal is decided, **the outcome is final**. Further appeals are not permitted, even if a decision or sanction is changed (except in the case of a new hearing).
- In cases where a procedural or substantive error cannot be addressed by the original Decision-Maker (as in cases of bias), the appeal may order a new investigation with new Investigators or a new hearing with a new Decision-Maker.
- The results of a new hearing can be appealed **once** on any of the appeal grounds defined in section a.
- In cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

36. RECORDKEEPING

The University will maintain for a period of at least seven (7) years records of:

- Each sex discrimination investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- Any disciplinary sanctions imposed on the Respondent;
- Any remedies provided to the Complainant designed to restore or preserve equal access

- to the University's education program or activity;
- Any appeal and the result therefrom;
- Any Informal Resolution and the result therefrom;
- All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an Informal Resolution process; and
- Any actions, including any supportive measures, taken in response to a report or Complaint of sex discrimination, including:
 - The basis for all conclusions that the response was promptly and effectively reached;
 - Any measures designed to restore or preserve equal access to the University's education program or activity; and
 - If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The University will also maintain any and all records in accordance with state and federal laws.

37. DISABILITIES ACCOMMODATIONS IN THE RESOLUTION PROCESS

The University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University's resolution process, whether it is meetings, Informal Resolution, or formal grievance procedures. Anyone needing such accommodations or support should contact the Title IX Coordinator, who will determine which accommodations are appropriate and necessary for full participation in the process.

38. TRAINING, PREVENTION, AND EDUCATION

The University provides educational programming and training designed to promote the prevention and awareness of sexual harassment and retaliation.

This Policy serves as the University's primary prohibition of sex discrimination and retaliation, in compliance with Title IX and related federal and state and local laws. The Policy outlines definitions of consent and prohibited behaviors, procedures to report sex discrimination, on- and off-campus resources for Complainants, supportive measures, Informal Resolution and Formal Grievance Processes, possible sanctions that may be issued as a result of a violation of the Policy, and other relevant information.

At the start of each academic year, all students and employees are notified of this Policy via their Elmhurst University email. Additionally, all students and employees are issued an online training course for sex discrimination prevention. All first-year students participate in an in-person presentation by the Title IX Coordinator or designee through their First Year Seminar covering prohibited behaviors, bystander intervention, and reporting processes at the University. Workshops, trainings, and other prevention and awareness campaigns occur throughout the year at the request of students, student organizations, employees, or specific offices on campus. The University periodically conducts campus climate surveys to assess student perceptions of the University's work related to sex discrimination prevention and response.

39. PROHIBITION AGAINST DISABILITY DISCRIMINATION

As noted in the general Statement Against Discrimination and Harassment set forth in Section 2, the University does not discriminate against individuals on the basis of physical or mental disabilities. To ensure equal access to its programs and activities, the University is committed to providing reasonable accommodations, including appropriate auxiliary aids and services, academic adjustments (inside or outside the classroom), and/or modification to the University's policies and procedures, to qualified individuals with disabilities, unless providing such accommodations would result in an undue burden or fundamentally alter the nature of the relevant program or activity. Reasonable accommodations are available to students, job or student applicants, employees, and Complainants and Respondents during the investigation process and live hearing

The University's Access and Disability Services Director is responsible for determining appropriate student and student applicant accommodations in conjunction with the individual and other University representatives, including the Title IX Coordinator in sex discrimination cases, as appropriate:

Dr. Linda Harrell
Student Accessibility Services
Learning Center, A.C. Buehler Library, 135
Elmhurst University
190 Prospect Avenue
Elmhurst, IL 60126
Phone: (630) 617-6448
Fax: (630) 617-3387
disability.services@elmhurst.edu

Employees, as well as job applicants, may seek accommodations through the Office of Human Resources. They may contact the following regarding accommodations:

Mr. James Fitzgerald
Executive Director of Human Resources/Title IX Deputy Coordinator for Staff
Human Resources
Lehmann Hall 222
Elmhurst University
190 Prospect Avenue
Elmhurst, IL 60126
(630) 617-3020

All applicants for admission to the University as a student or employee, current students, or current employees requesting an accommodation should do so in writing. The University may also ask for documentation from a medical professional regarding the individual's condition, the impact the condition has on the individual's ability to participate in the University's educational or other programs or workforce, and any suggested accommodations. The University may request only information that is relevant and reasonably necessary to determine whether an individual has a disability, the nature and extent of the disability, and appropriate reasonable accommodations. An

exception is pregnant students, who are generally not required to provide documentation for reasonable modifications from the Title IX Office (see Section 41 below).

All completed forms and supporting documentation for students and student applicants must be submitted to the Access and Disability Services Director and for employees and job applicants must be submitted to the Office of Human Resources. To enable the University to evaluate an individual's needs, engage in an interactive process with them, and provide appropriate reasonable accommodations in a timely fashion, the University requests that individuals complete and submit the required forms and supporting documentation as far in advance as possible or as soon as practicable under the circumstances. At Elmhurst University, students must request accommodations each semester. For employees, the length of the accommodations will be determined on a case-by-case basis by the Office of Human Resources. Job and student applicants' accommodations will be determined as needed by the respective offices above.

The University will make its determination on an individualized, case-by-case basis with input from the individual requesting accommodation and appropriate University leadership involved in supporting that accommodation. Except in complex cases requiring additional time, the University will reach a determination regarding an individual's request for accommodation and notify the individual in writing of the determination within three (3) weeks of their properly submitted request. In the event that requested accommodations have been denied, the University's determination letter will inform the individual of the reason(s) and of their right to appeal the University's determination. The appropriate official will maintain a confidential file regarding all requests for accommodation containing the forms and supporting documentation submitted by the individual, any relevant communications (including notes of oral communications) between the individual and the University, the determination letter from the University to the individual, and the reason(s) for any denials.

Any disagreements between a student or student applicant requesting an accommodation and the Access and Disability Services Director regarding appropriate accommodations and/or any allegations of violations of this Policy may be raised to the Vice President for Academic Affairs & Dean of the Faculty. Any disagreements between a current or prospective employee requesting accommodation and the Office of Human Resources regarding appropriate accommodations and/or any allegations of violations of this Policy may be raised to the Vice President for Business and Finance.

40. PREGNANT AND PARENTING STUDENTS AND EMPLOYEES

The University must protect students, employees, and applicants from discrimination based on pregnancy, childbirth, termination of pregnancy, lactation, related medical conditions, or recovery, and must provide reasonable modifications for students, reasonable break time for employees for lactation, and a clean, private lactation space for both students and employees. For students, the University must make reasonable modifications to the education program or activity based on a student's individualized needs. To determine reasonableness of the modification, the University must consult with the student. However, if the University can demonstrate that the modification would fundamentally alter the nature of the education program or activity, then the modification is not reasonable and need not be granted. The Title IX Office will take the lead on reasonable

modification requests for students and employees in conjunction with the Deputy Coordinators as needed.

When an employee is informed by a student (or a person with the legal right to act on behalf of the student) of a student's pregnancy or related condition, the employee is obligated to provide the student with the Title IX Coordinator's contact information and inform the student that the Title IX Coordinator is responsible for coordinating actions to prevent discrimination based on sex and to ensure equal access to the education program or activity.

As included in the Statement Against Discrimination and Harassment set forth in Section 2, pregnant students and employees are afforded equal opportunity and protection against discrimination and harassment. Title IX also prohibits discrimination on the basis of sex, which extends to pregnancy and parental status in educational programs and activities and in the workplace. Under Title IX, pregnant students are permitted to continue participating in classes and co-curricular activities and can request reasonable modifications to continue class or co-curricular participation.

Students and employees who are pregnant are treated respectively as students and employees who have temporary medical conditions. Pregnancy, childbirth, false pregnancy, termination or loss of pregnancy, and recovery from birth are viewed as justification for excused absences or a leave of absence deemed medically necessary by the student's physician or employee's physician. Pregnant and parenting students with medically necessary absences will be granted reasonable modifications to make up missed work, attendance, or graded class participation (e.g., assignments, projects, papers, quizzes, tests, and presentations) wherever possible. Reasonable modifications may include, but are not limited to, excused absences, extended deadlines, make-up test dates, other projects or assignments to replace in-class participation, independent study, online course completion options, or incomplete grades. In addition, pregnant students may have access to modifications, typically provided through the Access and Disability Services Director. Students have the right to accept or decline a reasonable modification. Pregnant employees may be entitled to reasonable accommodations, typically provided by the Office of Human Resources.

The University must permit a student or employee to voluntarily take a leave of absence. To receive approval for a leave of absence, a student is expected to follow the Voluntary Leave of Absence Policy as outlined in the Student Handbook and notify the Title IX Coordinator of their plan to take a leave of absence. An employee must follow the leave rules for employees. Notably, pregnant/parenting students or employees are **not** required to take a Leave of Absence.

Upon the return of the student or employee to the University, reasonable steps will be taken to ensure the student or employee is reinstated to the same status held prior to leave. The Title IX Coordinator will work with a student and the appropriate faculty and advisors to devise an alternative path to completion, if possible, for programs that include clinical rotations, performances, labs, and group work. Employees should contact the Office of Human Resources to determine what leaves of absence are available, including potentially Family and Medical Leave Act leave.

The University also offers clean and private Parenting Rooms in the following locations for students and employees to utilize if needed:

- A.C. Buehler Library 220
- Koplin Hall 207
- Frick Center 136
- Hammerschmidt Chapel 020
- Memorial Hall 016

To utilize the Parenting Rooms on a regular basis, a student or employee must meet with the Title IX Coordinator to be issued a key. Upon no longer needing consistent entry, the key is to be returned to the Title IX Coordinator. For off-hour or short-term access, students or employees can also contact Public Safety for assistance at (630) 617-3000.

Pregnant and parenting students or employees should contact the Title IX Coordinator to request reasonable modifications, to receive assistance with informing faculty of the need to adjust course expectations (for students) or supervisors for work expectations (for employees), to prepare for a leave of absence, for additional resources, and to plan for a smooth return to the University after a leave ends. The Title IX Coordinator will collaborate with the Office of Human Resources on reasonable modifications related to employees.

41. REVISION OF THIS POLICY

This Policy and procedures supersede any previous policies addressing harassment, discrimination, sex discrimination, and retaliation under Title IX and will be reviewed and updated as needed by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect. If government laws or regulations change—or court decisions alter—the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings. This Policy is effective August 1, 2024. Last revised July 31, 2024.

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