



**Policies & Procedures  
Related to Sexual Misconduct & Interpersonal Violence**

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## WALSH UNIVERSITY

# Sexual Misconduct and Interpersonal Violence Policy

Procedures for Students, Employees, and University Volunteers related to Institutional action in Cases of Sexual Misconduct, Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Retaliation.

### What is Title IX?

Title IX is part of the 1972 re-authorization of the Higher Education Act and that stipulates that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” Title IX requires all schools receiving federal financial assistance to take reasonable steps to create a safe, nondiscriminatory learning environment.

### **A. Policy Statement**

Walsh University prohibits all forms of sexual misconduct and interpersonal violence, including, but not limited to sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation and other forms of interpersonal violence or sex discrimination, otherwise called Prohibited Conduct. Such conduct violates Walsh University’s values and can cause disruption to the living, learning and work environment of students, employees, University volunteers, and other community members.

### **B. Policy Jurisdiction**

The *Walsh University Sexual Misconduct and Interpersonal Violence Policy* covers all students (prospective, continuing and transfer), employees, and University volunteers. As such, the University can investigate any reported violations of this policy that occur in the United States during a University-sponsored program, University-sanctioned activity, or otherwise directly affect the University’s working or learning environment, regardless of whether the reported conduct occurred on campus, off campus, or through virtual methods.

For every report, the Title IX Office will review the circumstances of the reported conduct to determine whether the University has jurisdiction over the parties involved and take steps within its control to eliminate, prevent, and address the reported conduct. If the Respondent is not a member of the University community or is no longer affiliated with the University at the time of the report or at the time that an *Investigation of Institutional Formal complaints* is initiated (including when the Respondent has graduated or left the University), the University typically is unable to investigate, sanction, or take disciplinary action.

Individuals impacted by sexual misconduct and/or interpersonal violence may contact the Title IX Office as detailed in “Section F. Disclosure and/or Reporting Options.”

### **C. Policy and Procedural Definitions**

For the purposes of determining whether a course of conduct constitutes a violation under this policy and its corresponding procedures, the relevant definitions are listed below.

- **“Employees”** are categorized as staff or faculty of Walsh University.
- **“Faculty”** of the University consists of those individuals with either faculty rank or status.
- **“Complainant”** is an individual who reportedly experienced sexual misconduct and/or

interpersonal violence, regardless of whether such individual reports such sexual misconduct and/or interpersonal violence to the University or participates in the University's conduct process for responding to reports of sexual misconduct and/or interpersonal violence described herein.

- **“Respondent”** is the individual or entity(s) alleged to have committed acts constituting sexual misconduct and/or interpersonal violence, regardless of whether such individual has entered into the University's conduct process for responding to complaints of sexual misconduct and/or interpersonal violence described herein.
- **“Staff”** are employees of Walsh University (full-time, part time, or casual) where the majority of their work responsibilities are considered non-teaching activities of various types in support of the educational, research, and service programs of the University.
- **“Student”** is any person who is currently enrolled at Walsh University.
- **“Third Party Reporter”** is any individual who reports a violation of this Policy to the University and who is not also the Complainant.
- **“University Volunteer”** is any uncompensated individual who is authorized by a University department or division to perform service for or on behalf of the University, or to gain personal or professional experience.
- **“Formal Complaint”** is a document filed by a complainant or signed by the Title IX Coordinator against a respondent and requesting that the recipient investigate the allegation of Prohibited Conduct. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.
- **“Formal Resolution”** is a grievance process initiated when a formal complaint is signed and filed alleging harassment and/or discrimination based on a protected characteristic against a respondent, and also requests that the complaint be investigated. The Formal Resolution includes an investigation, a decision, and appeal. The decision-making process includes a live hearing when the complaint involves allegations of “Sexual Harassment – Title IX”
- **“Informal Resolution”** is an alternate complaint resolution process available when a formal complaint is signed and filed alleging harassment and/or discrimination based on a protected characteristic against a respondent, and both parties agree to have the complaint resolved informally.
- **“Supportive Measures”** are non-disciplinary, non-punitive individualized services offered to both the complainant and respondent as appropriate, reasonably available, and without fee or charge. This is referred to as protective measures in the Clery Act Compliance Section, Section XV.
- **“Title IX Dismissal”** occurs when the conduct alleged in a formal complaint does not constitute sexual harassment as defined under Title IX, did not occur in a College education program or activity, or did not occur against a person in the United States, the College must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX. When a complaint is dismissed under Title IX, it may be resolved through Non-Title IX Sexual Harassment.
- **“Prohibited Conduct”** includes all forms of Title IX Sexual Harassment and Non-Title IX Sexual Harassment, as defined below.

- *Title IX Sexual Harassment*

For reported behavior to qualify as prohibited conduct under this section, in

addition to meeting the elements of the specific type of sexual harassment below, it must meet all of the following threshold requirements, as determined by the Title IX Coordinator and as mandated by federal regulations:

1. The conduct must have occurred against a person in the United States.
  2. The conduct must have occurred within the College's education program or activity. For purposes of this provision, this means that the conduct must have occurred either (a) in a location, event, or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs or (b) in relation to a building owned or controlled by a student organization that is officially recognized by the College.
  3. The complainant must be participating in or attempting to participate in the education program or activity of the College at the time the formal complaint is filed.
- *Title IX Quid Pro Quo Sexual Harassment:* Conduct on the basis of sex by which an employee of the University conditions the provision of an aid, benefit, or service of the University on a student's or employee's participation in unwelcome sexual conduct.
  - *Title IX Severe, Pervasive and Objectively Offensive Sexual Harassment:* Conduct on the basis of sex that constitutes unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a student or employee equal access to the University's education program or activity.
  - *Title IX Sexual Assault: "Sexual Assault"* means any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.
    - *Rape:* The carnal knowledge of a person, without the consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. Carnal knowledge is defined as the slightest penetration of the sexual organ of one person by the sexual organ of the other.
    - *Fondling:* The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
    - *Incest:* Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. In Ohio, this means that individuals closer in kin than second cousins may not have sexual intercourse.
    - *Statutory Rape:* Sexual intercourse with a person who is under the statutory age of consent. In Ohio, state law prohibits sex with any individual under the age of 13; additionally, individuals over the age of 18 may not have sex with individuals under the age of 16.

- *Title IX Domestic Violence*: Includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior; by a person with whom the complainant shares a child in common; by a person who is/was cohabitating with the complainant; by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
  
- *Title IX Psychological & Emotional Abuse*: a pattern of behavior undermining an individual's sense of self-worth or self-esteem, constant criticism, diminishing one's abilities, name-calling.
  
- *Title IX Economic Abuse*: in the context of domestic violence [and] dating violence means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to-
  - Restrict a person's access to money, assets, credit, or financial information;
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.
  
- *Title IX Technological Abuse*: means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.
  
- *Title IX Abuse in Later Life*: Means
  - Neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or
  - Domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and

- Does not include self-neglect
- *Title IX Dating Violence*: Conduct that constitutes violence committed by a person who was/is involved in a sexual, dating, spousal, domestic or other intimate relationship with the Complainant.
- *Title IX Stalking*: Conduct on the basis of sex that constitutes a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. Stalking includes cyberstalking, which utilizes electronic formats such as the internet, social networks, social media apps, blogs, texts, cell phones and other devices. Stalking may include behavior that occurs outside the context of a relationship. And for the purposes of this definition:
  - Course of conduct means two or more acts, including, but not limited to, acts in which the respondent 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 complainant; or,
  - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- **Non-Title IX Sexual Harassment**  
 “Sexual Harassment — Non-Title IX” is any unwelcome sexual advance, request for sexual favors, or other unwanted verbal or physical conduct of a sexual nature when one or more of the following conditions are present:
  1. The conduct must have occurred against a person in the United States.
  2. The conduct must have occurred within the College’s education program or activity. For purposes of this provision, this means that the conduct must have occurred either (a) in a location, event, or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs or (b) in relation to a building owned or controlled by a student organization that is officially recognized by the College.
  3. The complainant must be participating in or attempting to participate in the education program or activity of the College at the time the formal complaint is filed.
- *A Single Incident of Sexual Harassment* — Non-Title IX alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a pattern of incidents to create a hostile environment. The determination of whether an environment is “hostile” will be based on the totality of the circumstances, including, but not limited to:
  - The frequency of the speech or conduct;
  - The nature and severity of the speech or conduct;

- Whether the speech or conduct was physically threatening;
- The effect of the speech or conduct on the individual’s mental and/or emotional state;
- Whether the speech or conduct was directed at more than one person;
- Whether the speech or conduct arose in the context of other discriminatory conduct;
- Whether the speech or conduct unreasonably interfered with the individual’s educational opportunities or performance (including off campus study), Walsh-controlled living environment, work opportunities or performance;
- Whether a statement is a mere utterance of an epithet that engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or
- Whether the speech or conduct is protected by the First Amendment and/or deserves the protections of academic freedom.

Sexual Harassment — Non-Title IX can take many forms:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents;
- May be committed by anyone, regardless of gender, age, position, or authority;
- May be committed by a stranger, an acquaintance, or someone with whom the individual has an intimate or sexual relationship;
- May be committed by or against an individual or may be a result of the actions of a group;
- May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation;
- May occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting; an
- May affect the individual and/or others who witness or observe the harassment.

There may be situations where respondent’s reported conduct constitutes both “Sexual Harassment — Title IX” and “Sexual Harassment — Non-Title IX.” The respondent will receive notice of both charges and the resolution process will investigate both charges. If the reported conduct is adjudicated and the respondent is found responsible for the charge of “Sexual Harassment — Title IX,” the respondent will not be separately sanctioned for the charge of “Sexual Harassment — Non-Title IX.”

- *Non-Title IX Sexual Assault:* As defined in the Title IX Sexual Assault definition above that did not reportedly occur in a program or activity of the University in the United States.
- *Non-Title IX Domestic Violence:* Domestic violence as defined in the Title IX

Domestic Violence definition above that did not reportedly occur in a program or activity of the University in the United States.

- *Non-Title IX Dating Violence:* Dating violence as defined in the Title IX Dating Violence definition above that did not reportedly occur in a program or activity of the University in the United States.
- *Non-Title IX Stalking:* Stalking as defined in the Title IX Stalking definition above that did not reportedly occur in a program or activity of the University in the United States, or that otherwise fits within the definition of stalking but does not fall within the Title IX Stalking definition because the reported conduct is not directed at the alleged victim on the basis of sex.
- *Sexual Exploitation:* Sexual Exploitation is knowingly, intentionally or purposefully taking advantage of the sexuality of another person without consent or in a manner that extends the bounds of consensual sexual activity without the knowledge of the other individual for any purpose, including sexual gratification, financial gain, or personal benefit. Examples of Sexual Exploitation include:
  - Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
  - Voyeurism;
  - Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
  - Non-consensual recording of individuals in locations in which they have a reasonable expectation of privacy, such as restrooms or locker rooms, regardless of whether the images captured reveal sexual activity or nudity;
  - Prostituting another individual;
  - Exposing one's genitals in non-consensual circumstances;
  - Removal of a condom, without consent, during sexual intercourse;
  - Knowingly exposing another individual to a sexually transmitted infection or virus without that individual's knowledge; and
  - Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity, e.g., by using alcohol or other drugs (such as Rohypnol or GHB).
- *Retaliation:* No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the individual has made a formal complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a formal complaint. The exercise of rights protected under the First Amendment does not constitute retaliation.



For additional information regarding the grievance process for Non-Title IX Sexual Harassment see Section N. Institutional Grievance Process > i. Dismissal of Allegation.

## D. Walsh University Consent Standard

- **Consent** is an agreement expressed through affirmative, voluntary words and/or actions, and mutually understandable to all parties involved, to engage in a specific sexual act at a specific time.
  - Consent must be ongoing and can be withdrawn at any time by involved parties.
  - Consent requires a mutual, clear and certain yes through words and/or actions.
  - Consent cannot be assumed based on the following:
    - Silence
    - Implied confirmation of interest
    - Initiation of sexual contact
    - The absence of a clear/certain yes
    - The absence of a clear/certain “no” through words and/or actions
    - The existence of a prior or current relationship
    - Prior sexual activity
  - Consent cannot be coerced or compelled, including but not limited to the use of force, threat deception or intimidation.
    - **Coercion:** presenting a mentally and/or emotionally manipulative proposal for the purpose of persuading another person and/or party to act against their own interest and/or best judgment.
    - **Force:** is the use or threat of physical violence, intimidation, or coercion to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. Such action would cause a person to fear for their physical or psychological well-being.
    - **Deception:** knowingly presenting false or misleading information, identity, circumstance, and/or withholding key information.
    - **Intimidation:** presenting oneself and/or environment in a way that reasonably frightens, threatens, and/or pressures another person and/or party to comply

Consent cannot be given by someone who is not of legal age to provide it (per ORC§2907.04). Consent cannot be given by someone who is incapacitated, as defined below.

- **Incapacitation** is when a person’s perception and/or judgement is substantially impaired because of a mental or physical condition [including, but not limited to intoxication] causing the person to lack the ability to effectively make or act on conscious decisions.

## E. Disclosure and/or Reporting Options

Walsh University recognizes a distinction between disclosing and formally reporting incidents of sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation otherwise referred to as *Prohibited Conduct*. Disclosing an incident may not result in a formal complaint, depending on to whom the information is communicated, the circumstances under which the incident occurred, and in many situations, the wishes of the Complainant\*.

## 1. **Mandatory Reporters**

All full- and part-time Walsh University employees, including administration, faculty, staff, University volunteers and student paraprofessionals, such as Resident Assistants and Campus Ministry Peacemakers, are mandated to report any incidents of Prohibited Conduct directly to the Title IX Coordinator or Title IX Deputies, unless they are one of the *confidential resources* outlined below.

## 2. **Confidential Resources**

\*If you are unsure if you would like to make a formal complaint regarding an incident of Prohibited Conduct. Walsh University's Counseling Services (students only), Health Services, University Senior Chaplain, Domestic Violence Project, Inc., and COMPASS are confidential resources available to you for disclosure. Confidential resources will not report the disclosure of these incidents to Title IX or Campus Police without a victim/survivor's written permission, and to the extent, they are permitted to promise confidentiality under the law.

## 3. **On-Campus Confidential Resources – Students**

- a. Counseling Services | David Campus Center (Suite 104) | (330)490-7348
  - i. Francie Morrow, LPCC-S | Executive Director
  - ii. Stephanie Walker, LPCC | College Counselor
  - iii. Lisa Lutz, LPCC-S | College Counselor
  - iv. Megan Rhoads, LPCC | College Counselor
- b. University Chaplain\*\* | 330-490-7051

Note: An ordained member of the clergy or a member of an institute of consecrated life (i.e. priest, deacon, minister, and religious sisters and brothers) who is recognized by a religious order or denomination as someone who provides confidential pastoral counseling or spiritual direction may serve as a confidential resource only while operating in their professional capacity of providing religious or spiritual advice (i.e. during a private pastoral counseling meeting etc.). If the member of the clergy or institute is made aware of crimes or offenses outside of their professional capacities, such as member of clergy with a dual professional role at the university (i.e. instructor, coach, club/org. advisor, etc.), they are considered mandatory reporters in these instances.

This pastoral confidentiality, which is subject to certain limits (see "F. Confidentiality and Support" below), is distinct from the unique secrecy (the "seal") of the Sacrament of Penance, also known as "Confession" or the "Sacrament of Reconciliation." In the Catholic Tradition, the Sacrament of Penance provides an absolutely confidential forum, the secrecy of which admits of no exceptions whatsoever or in any circumstance.

- c. Moira Hill | Victim Advocate | Hannon 205 | (330)452-1111 |

## 4. **On-Campus Confidential Resources – Employees**

- a. University Chaplain\*\* | 330-490-7051

Note: An ordained member of the clergy or a member of an institute of consecrated life (i.e. priest, deacon, minister, and religious sisters and brothers) who is recognized by a religious order or denomination as someone who provides confidential pastoral counseling or spiritual direction may serve as a confidential resource only while operating in their professional capacity of providing religious or spiritual advice (i.e. during a private pastoral counseling meeting etc.). If the member of the clergy or institute is made aware of crimes or offenses outside of their professional capacities, such as member of

clergy with a dual professional role at the university (i.e. instructor, coach, club/org. advisor, etc.), they are considered mandatory reporters in these instances.

This pastoral confidentiality, which is subject to certain limits (see "F. Confidentiality and Support" below), is distinct from the unique secrecy (the “seal”) of the Sacrament of Penance, also known as “Confession” or the “Sacrament of Reconciliation.” In the Catholic Tradition, the Sacrament of Penance provides an absolutely confidential forum, the secrecy of which admits of no exceptions whatsoever or in any circumstance.

b. Moira Hill | Victim Advocate | Hannon 205 | (330)352-1111

## 5. Off-Campus Confidential Resources- Students and Employees

a. *Walsh University Health Services AultmanNow Washington Square*  
6525 Market Ave. N., North Canton | (330) 363-8680

b. *Domestic Violence Project, Inc.*

720 19<sup>th</sup> Street NE, Canton OH | (330) 453-7233

Available Victim Services:

- i. 24-hr. Confidential Hotline (330) 453-7233
- ii. Emergency Shelter
- iii. Transitional Housing
- iv. Legal Advocacy Services
- v. Outreach and Aftercare Advocacy
- vi. Medical Advocacy

c. *COMPASS Sexual Assault Education, Prevention and Support*  
408 9<sup>th</sup> Street SW, Canton OH | (330) 452-1111

Available Victim Services:

- i. 24 Hr. Confidential Hotline (330) 453-7233
- ii. Counseling
- iii. Case Management
- iv. Outreach Advocacy
- v. Legal Advocacy
- vi. Hospital Advocacy

## 6. On-Campus Formal Complaint – Students, Employees and University Volunteers

a. *Title IX Coordinator:*

Rachel Hosler, Vice President of Student Affairs |  
Student Affairs | David Campus Center | (330) 490-7301

b. *Title IX Deputy Coordinators:*

- i. David Gramlich, Athletic Business Coordinator | Cecchini Health and Wellness Complex | (330) 490-7515
- ii. Christina Paone, Interim VP of Athletics, Head Golf Coach, Cecchini Health and Wellness Complex | (330) 490 7519
- iii. Jennifer Hoffner, Human Resource Specialist | Farrell Hall | (330) 490-7542
- iv. Megan Huston, Director of Culture and Belonging | David Student Center (101) | (330) 490-7155

## F. Confidentiality and Support

Walsh University will maintain the confidentiality of the Complainant—regardless of whether confidentiality is requested—to the extent it is legally permitted and has the ability to appropriately

provide accommodations, Supportive/Interim Measures, and/or protective measures. As such, there may be situations where disclosing some personally identifiable information about a Complainant may be necessary. For allegations of misconduct related to Prohibited Conduct, the Title IX Coordinator will determine what information about the Complainant should be disclosed and to whom this information will be disclosed. Unless extenuating circumstances exist, the Complainant will be informed before sharing personally identifiable information that the University believes is necessary to provide a safe and non-discriminatory environment, to provide an accommodation, and/or to provide any interim or protective measures.

If the Complainant requests the University not reveal the Complainant's name to the Respondent and/or asks the University to not investigate a formal complaint, this may limit the University's ability to respond fully to the incident, including pursuing disciplinary action, and being able to sanction the prohibited conduct against the Respondent. Specific confidentiality requests should be made directly to the Title IX Coordinator, Rachel Hosler, at (330) 490-7301.

While Walsh University will strive to honor a Complainant's requests, there are circumstances when personally identifiable information about a Complainant may be shared and/or when an investigation may occur despite a Complainant requests otherwise. The University has a legal duty to act if it determines it is appropriate and necessary in certain cases of Prohibited Conduct where an *Imminent Threat* to the campus community and/or pattern of behavior may be present. "Pattern of behavior" is defined as two or more reported instances of the same type of prohibited conduct.

**1. Imminent Threat** is classified as an incident of sexual misconduct and/or interpersonal violence that includes the following:

- a weapon,
- physical force or violence,
- when the victim/survivor is a minor,
- pattern by same perpetrator, and/or
- a significant threat to the University

**2. Other Limits to Confidentiality:**

- a. *Mandatory Reporting of Child Abuse.* All University employees, including confidential resources, are required to immediately report any knowledge or reasonable suspicion that a minor (someone under 18 years old) is experiencing abuse or neglect based on information shared by the minor, any other individual, or one's own observations or knowledge.
- b. *Ohio Felony Reporting Requirement.* Under Ohio law, all individuals, excluding confidential resources, must report possible felonies, including sexual violence. Under Ohio Revised Code Section 2921.22, medical professionals, mental health professionals and clergy are not required to report felonies.
- c. *Ohio Medical Professional Reporting Requirements.* In Ohio, medical professionals have distinct legally mandated reporting responsibilities. Where a medical professional knows or has reasonable cause to believe that serious physical harm resulted from an offense of violence, the medical professional is required to make a report to law enforcement. Medical professionals must deem a patient medically stable before reporting and must communicate to the patient that the patient does not have to report and/or speak to the police. If the patient chooses not to speak to police at the time of the medical examination, the medical

professional does not need to report the patient's name — only the date, general time, and general location of the incident.

- d. *Risk of Harm to Self or Others.* Mental health professionals are required to disclose information where there is an imminent threat of harm to self (the client) or others.

### **3. Clery Act Reporting**

Pursuant to the Clery Act, anonymous statistical information for certain offenses that have been reported at campus locations must be shared with Campus Security. The information does not include the names or any other identifying information about the persons involved in such incidents.

Additionally, the University has a duty to complete certain publicly available recordkeeping, including reporting and disclosing information about certain crimes pursuant to a federal law known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”). Reported incidents of these crimes will be included in the University’s annual crime statistics per its annual security

Report and daily crime logs, as required. The University is also obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant campus geography that represents a serious or continuing threat to students, employees, and university volunteers, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the Complainant. The University will not report and/or disclose personally identifiable information about a Complainant in its recordkeeping required by the Clery Act

The University will make every effort to respect a Complainant’s autonomy in determining how to proceed when they disclose and/or formally report an incident of sexual misconduct and/or interpersonal violence. Support and resources are always available to Complainant—regardless of the chosen course of action. Receiving a formal complaint of an incident permits the University to keep records of reported incidents and determine the appropriate response and the potential need to alert the University community to potential danger.

## **G. Caring Cavalier Amnesty Policy**

The University recognizes that students who experience or witness a sexual assault, dating violence, domestic violence, stalking, and/or a medical emergency while under the influence of alcohol or illegal substances may be hesitant to report these occurrences due to concerns for the potential consequences of violating the student code of conduct.

The Caring Cavalier Amnesty Policy is focused on empowering students to support the health and well-being of themselves and others. Any student coming forward to report incidents involving sexual assault, dating violence, domestic violence, stalking, and/or a medical emergency will be granted amnesty by the Student Conduct and Community Standards and will not be subject to violations of the University’s alcohol and/or substance abuse policies that occurred at or near the time of the alleged incident(s).

Report immediate health and safety emergencies to Walsh University’s Campus Police (330-490-7474 or 330-316-1088). Report non-emergencies to the University’s Title IX Office (330-490-7301) or Student Conduct and Community Standards (330-490-7501).

The Caring Cavalier Amnesty Policy provides amnesty for violations of the student code of conduct as it relates to alcohol and/or substance abuse policies only. Students will be required to meet with a representative from the Student Conduct and Community Standards Office to provide further information about the incident(s). Students may be required to participate in online education, reflection assignments, and/or assessment and treatment referrals. Students who repeatedly use the amnesty policy may be required to participate in additional educational interventions and support opportunities. Failure to complete assignments required by the University will result in ineligibility for amnesty. Additionally, this policy does not grant amnesty from criminal, civil, or legal consequences for violations of federal, state, or local laws.

## **H. Written Statement of Rights, Reporting Options and Resources**

Any student, employee or University volunteer that discloses an incident and/or makes a formal complaint to the Title IX Office of sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation and/or other forms of interpersonal violence or sex discrimination will receive a written notification of their rights, reporting options, and resources. Please note that the receiving of this information is not dependent on the filing of a formal complaint.

## **I. First Contact with the Title IX Office**

Upon disclosure of an incident of Prohibited Conduct from a student, employee, or University volunteer to the Title IX Office, the Title IX Office will outreach to the person who may have experienced the Prohibited Conduct. The outreach (from the Title IX Coordinator or a Title IX Deputy) includes ensuring the Complainant receives information regarding:

- medical and confidential counseling and support resources;
- options for pursuing a formal complaint and/or reporting the incident to law enforcement;
- how to request an interim no-contact order;
- how to request other Supportive/Interim Measures from the University;
- how to preserve evidence;
- where to access more information.

The outreach will also include an invitation to meet with or provide additional information to the Title IX Office. The initial meeting may be followed by 1) filing a formal complaint or 2) a request by the Respondent to take no further action.

The University will strive to honor the request of the Complainant as to a course of action. However, the University has a legal duty to act if the University determines it is appropriate and necessary in certain cases of Prohibited Conduct where an *Imminent Threat* to the campus community and/or pattern of behavior may be present (see Section F “Confidentiality and Support” for additional information).

The University will make every effort to respect a Complainant’s autonomy in determining how to proceed. Support and resources are always available to a Complainant regardless of the chosen course of action. Receiving a formal complaint of an incident permits the University to keep records of reported incidents and determine the appropriate response and the potential need to alert the University community to potential danger. Reported incidents will also be included in the University’s annual crime statistics as required.

## J. Supportive/Interim Measures

In the case of Prohibited Conduct, the Title IX Coordinator or Title IX Deputies may take immediate action to assist a Complainant in resuming educational activities while deciding the next steps, if any, to pursue against a Respondent or while awaiting the results of a resolution process.

**“Supportive/Interim Measures”** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties. Furthermore, the supportive/interim measures are based on what is not clearly unreasonable in light of the known circumstances and does not second guess a school’s disciplinary decisions. Finally, a school is required to offer supportive measures, and provide remedies to Complainant whenever Respondent are found responsible.

Walsh University will provide information, in writing, to Complainant or Respondent about options for, available assistance in, and how to request changes to academic, living, transportation and working situations or protective measures. The institution will make accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the Complainant chooses to report the crime to Campus Police or local law enforcement. Additionally, the University is obligated to comply with a student’s reasonable request for a living and/or academic situation change following an alleged sex offense. \*Please note that some Supportive/Interim Measures that impact both the Complainant and Respondent may require a finding of “in-violation” (see *italicized* measures listed below).

Supportive/Interim Measures can include but are not limited to, the following:

- Providing an escort,
- Changing the Complainant class schedule or room assignment in the residence halls,
- Arranging academic accommodations,
- Waiving the service fee for on-campus health center services,
- *Issuing no contact orders\**,
- Complying with protection orders\*\*,
- *Limiting the Respondent(s)’ access to campus,*
- *Limiting the Respondent(s)’ access to facilities and activities,*
- *Changing the Respondent(s)’ course schedule or room assignment, and/ or*
- Implementing other appropriate educational or prevention strategies to address the environment in which the offense took place.
- Change in University-related work schedules or job assignments
- Voluntary Leave of Absence
- Assistance in contacting community resources
- Transportation related to accessing services/support after an incident of sexual misconduct or interpersonal violence
- When appropriate, Supportive/Interim Measures can include Respondent being placed on interim suspension or interim administrative leave.

*\*A person may contact the Title IX Coordinator (330-490-7301) to inquire and request a No Contact Order. This is a written order issued by the University that generally requires an alleged Respondent to stay away from a victim/ survivor and is supported by University consequences for non-compliance with the order.*

*\*\*A person may also seek a protection order from the local court of the state of Ohio. This is a legal process*

*independent of the University. A protection order is a written order that generally requires an alleged perpetrator to stay away from a victim/survivor and is supported by legal consequences for non-compliance with the order. If a court order is issued, the University will, to the extent possible, assist the protected person in benefiting from the restrictions imposed by the court and will also facilitate on-campus compliance with the order.*

*The Title IX Coordinator (330-490-7301) or a Title IX Deputy, an advocate from COMPASS Sexual Assault Education, Prevention & Support (330-452-1111) or Domestic Violence Project, Inc. (330-453-7233), and Campus Police (330-490-7474 or 330-316-1088) are all able to assist victims/survivors who want to request a protection order. Below are the legal options available in the state of Ohio:*

- *Criminal Protection Order*
- *Domestic Violence Criminal Temporary Protection Order*
- *Domestic Violence Civil Protection Order*
- *Dating Violence Civil Protection Order*
- *Civil Stalking Protection Order*
- *Sexually Oriented Offense Protection Order*

*If a victim/survivor believes there has been a violation of a court-ordered protection order, they should contact the police department in the jurisdiction where the violation has occurred.*

Information will be provided in writing to a Complainant regarding the above support/interim measures, as well as existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for victims both on and off campus. Additionally, it is not required for a formal complaint to be filed and/or investigated for supportive/interim measures to be implemented, as deemed necessary by the Title IX office. The Title IX Coordinator and/or a Title IX Deputy will use the following factors to determine appropriate Supportive/Interim Measures to be implemented:

- specific need expressed by the complainant
- the age of the students involved
- the severity or pervasiveness of the allegations
- any continuing effects on the complainant
- whether the complainant and alleged perpetrator share the same residence hall, dining hall, class, transportation or job location; and
- whether other judicial measures have been taken to protect the Complainant (e.g., civil protection orders)

**For more information about Supportive/Interim Measures, please contact the Title IX Coordinator, Rachel Hosler at (330) 490-7301, or [titleix@walsh.edu](mailto:titleix@walsh.edu).**

## **K. Filing a Formal Complaint**

Any current Walsh University student, employee, or University volunteer may file a formal complaint of Prohibited Conduct against other current students, employees, or University volunteers connected to the University. These formal complaints may be submitted in person, by mail, electronic mail, or via phone using the University's contact information for the Title IX Coordinator and must include the Complainant's physical or digital signature, or otherwise indicate that the Complainant is the person filing the formal complaint. All formal complaints should be submitted directly to the Title IX



Coordinator, **Rachel Hosler at (330) 490-7301**, or [titleix@walsh.edu](mailto:titleix@walsh.edu) and should include the following information:

- Name of the Alleged Respondent(s)
- Date of the Alleged Incident
- Location of the Alleged Incident
- Details regarding the Alleged Prohibited Conduct being reported

It is strongly encouraged to submit a formal complaint as soon as possible after the incident takes place or becomes known in order to optimize opportunities to secure evidence and witnesses. As there is no time limit on reporting violations of this policy, if a reporting party or Respondent is no longer affiliated with Walsh University (e.g. a formal complaint is made after a student has withdrawn/graduated, or an employee or University volunteer is no longer employed and left their position), the University is often limited in its recourse to dress the concern, and the University may no longer have jurisdiction over the reported incident. Complaints involving minors will be immediately referred to the local law enforcement authority having jurisdiction.

## **L. Law Enforcement Notification**

The University also urges the Complainant to report all instances of Prohibited Conduct or criminal activity to Walsh University Campus Police or other law enforcement agencies. The Complainant may contact Campus Police or local law enforcement directly, whether or not a formal complaint has been filed with the University. If requested, the University can assist the Complainant in notifying law enforcement or legal service organizations to learn about these remedies. The Complainant may also decline to notify law enforcement. Please see the Sexual Misconduct and Interpersonal Violence Prevention Policy (Section C “Definitions – Ohio Revised Code”) for more information on the definitions of these crimes according to the Ohio Revised Code.

A person may formally report an incident to either the police or the University or to both.

### **1. How to File a Police Report**

A victim/survivor wanting to make a police report can contact Campus Police (available 24/7) using the following information:

#### **a. On-Campus Law Enforcement – Students and Employees**

Walsh University Campus Police | (330) 490-7474 or (330) 316-1088  
2020 East Maple Street, North Canton, OH 44720

Filing a formal complaint with Campus Police or local law enforcement allows the department the ability to investigate the alleged crime, gather evidence, and refer a case for prosecution when warranted. A victim/survivor may choose to have an advocate present from COMPASS Sexual Assault Education, Prevention & Support (330-452-1111) or Domestic Violence Project, Inc. (330-453-7233) when filing the report.

### **2. Effect of Law Enforcement Notification**

The filing of a formal complaint of Prohibited Conduct under this policy is independent of any criminal investigation or proceeding. The University typically does not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation or to take any necessary interim remedies to protect the Complainant and the University community. However, the University may temporarily delay its investigation to enable law enforcement to gather evidence and to engage in a preliminary investigation of Prohibited Conduct that may also violate state or federal law.

## **M. Preservation of Evidence**

As time passes, evidence of Prohibited Conduct may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining orders of protection related to the reported incident more difficult. If a Complainant chooses not to make a formal complaint to the University regarding an incident, they nevertheless are still able to speak with Walsh University Campus Police or other law enforcement agencies and/or a local Sexual Assault Nurse Examiner (SANE) program regarding evidence preservation in the event the Complainant changes their mind at a later date. Further, completion of a medical forensic evaluation may also allow a Complainant to preserve evidence while deciding whether to later file a police report.

### **1. Preserving Evidence for Sexual Assaults**

Physical evidence is crucial in helping to prosecute assailants in cases of rape or sexual assault and in obtaining a protection order. Physical evidence must be collected in a timely manner by a certified medical facility. Two of these local medical programs include Aultman Hospital's Serenity Program and Mercy Medical Center's Haven Program whose contact information is listed below #4. Prior to a medical/legal exam, victim/survivors of rape or assault should not bathe, change clothes, douche, use the toilet (if possible), smoke or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours so that the evidence may be preserved. If the victim/survivors do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted diseases.

### **2. Preserving Evidence for Victim/Survivors of Violence**

Preserving evidence may be necessary to prove criminal domestic violence or dating violence, and in obtaining a protection order. Victim/survivors of violence should not bathe or change clothes prior to documentation of physical evidence. Two of the local medical programs that can provide a domestic violence forensic examination for victims/survivors include Aultman Hospital's Serenity Program and Mercy Medical Center's Haven Program whose contact information is listed below in (Section M #4. If victim/survivors do not opt for forensic evidence collection, health care providers can still treat injuries.

### **3. Preserving Evidence for Victim/Survivors of Stalking**

Preserving evidence of stalking may be necessary to prove criminal stalking and assisting a victim/survivor in obtaining a protection order. Victim/survivors of stalking should save evidence such as any letters, notes, emails, phone calls, videos, photos, texts, social media postings, computer screenshots, voicemails, or any other form of evidence that would be helpful.

### **4. Off-Campus Sexual Assault Nurse Examiner (SANE) Programs – Students and Employees**

- a. *Aultman Hospital Serenity Program* | (330) 363-6788 | [www.aultman.org](http://www.aultman.org)  
2600 6th St SW, Canton, OH 44710  
*\*Please go to the Aultman Emergency Department to access Serenity Program services.*
- b. *Mercy Medical Center's Haven Program* | (330) 489-1000 x2170 | [www.cantonmercy.org](http://www.cantonmercy.org)  
Healing After Violent Encounter's Network Program  
1320 Mercy Drive NW, Canton, OH 44708

## **N. Institutional Grievance Processes**

### **1. Criminal Complaints**

Ohio state and/or federal law will apply, and the matter will follow criminal processes through a

police investigation and/or a referral to the criminal court system for resolution, if applicable.

## **2. Formal Complaint**

The University's investigation of formal complaints of policy violations is different and separate from a criminal complaint investigation by any law enforcement agency. An ongoing law enforcement investigation does not relieve the University of its obligation to investigate allegations of conduct prohibited by this policy. In cases involving potential criminal conduct, University personnel must determine, consistent with federal, state, and local law, whether appropriate law enforcement agencies or other authorities should be notified. Conduct may constitute a violation of this policy and result in disciplinary action by the University even if a law enforcement agency and/or court of law determines that the conduct did not constitute a crime.

## **3. Informal Resolution of Formal Complaints**

In appropriate circumstances, and with the approval of both the Complainant and Respondent, the Title IX Coordinator may attempt informal resolution options, such as alternate resolutions or restorative justice to resolve a formal complaint of an alleged policy violation without the need for additional proceedings. When *Informal Resolution of a Formal Complaint* is pursued, the Title IX Coordinator will provide written notice to the Complainant and Respondent regarding:

- 1) the allegations;
- 2) the voluntary nature of the informal resolution process and the availability of a formal investigation at all times; and
- 3) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Effort will be made to resolve an institutional formal complaint within approximately sixty (60) days of the filing of a formal complaint. The objective of the informal process will be to reasonably resolve the incident to the mutual satisfaction of the parties involved, if possible.

### **a. Alternative Resolutions**

In some cases, both the Complainant and Respondent have the opportunity to request a specific type of informal resolution process. In order to proceed with an informal process, both parties must agree to the Informal Resolution. At any time, either party has the right to pursue a formal process.

### **b. Restorative Practice**

Means a practice relating to a specific harm that is community-based and unaffiliated with any civil or criminal legal process; is initiated by a victim of the harm; involves, on a voluntary bases and without any evidence of coercion or intimidation of any victim of the harm by any individual who committed the harm or anyone associated with any such individual; one or more individuals who committed the harm; one or more victims of the harm; and the community affected by the harm through one or more representatives of the community; shall include and has the goal of collectively seeking accountability from one or more individuals who committed the harm; developing a written process whereby one or more individuals who committed the harm will take responsibility for the actions that caused harm to one or more victims of the harm; and developing a written course of action plan that is responsible to the needs of one or more victims of the harmed, and upon which one or more victim, one or more individuals who committed the harmed, and the community can agree; and is conducted in a victim services framework that protects the safety and supports the autonomy of one or more victims of the harm and the community.

Walsh University may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Similarly, Walsh University may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. Walsh University must not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student. At any time either party has the right to withdraw from the Informal Resolution process and resolve the formal complaint through a Formal Resolution. If the parties are not able to resolve the complaint through the Informal Resolution process, the complaint will be resolved through a Formal Resolution unless the complaint is withdrawn or dismissed.

The Title IX Coordinator retains the discretion to determine the type of Informal Resolution that may be appropriate in a specific case and may refer a complaint to a Formal Resolution at any time. Informal Resolutions will typically be completed within 60 calendar days of the decision to engage in Informal Resolution. Informal Resolution agreements are signed by the parties and the Title IX Coordinator and are enforced by the University

#### **4. Investigation of Formal complaints**

In instances where informal methods of resolution are inappropriate or declined, a formal investigation will be conducted. While all investigations will vary due to the individual circumstances surrounding the particular report, formal investigations under this policy will typically involve the following:

##### **a. Initial Review**

Preliminary review by the Title IX Coordinator of any formal complaint filed to determine whether, on its face, an alleged violation of the policy has occurred, and an investigation is needed.

##### **b. Investigation of Allegations**

Investigations are conducted by the Title IX Office. For the purposes of investigation, the Title IX Coordinator will assign Title IX Team members(s). Title IX Team members include the Title IX Coordinator and Title IX Deputies, and all team members are trained to conduct each stage of the formal investigation process.

##### **i. Initial Title IX Team Assignment**

Prior to the start of a formal investigation, the Title IX Coordinator will send a written "Initial Title IX Team Assignment" to the Complainant and Respondent, which will include the names of the Title IX Team member(s) assigned to the particular formal complaint.

##### **ii. Conflict of Interest**

If any Complainant and/or a Respondent believes any Title IX Team member assigned to the particular formal complaint has a conflict of interest, the party must contact the Title IX Coordinator in writing no more than seven (7) days (excluding University holidays) of receiving the Initial Title IX Team Assignment with an explanation of the alleged conflict of interest (a "Conflict of Interest Actual knowledge notice").

In the event that the Title IX Coordinator receives a Conflict of Interest Actual

knowledge, the Title IX Coordinator will make any substitutions the Title IX Coordinator deems appropriate. Similarly, if an assigned Title IX Team Member believes the particular formal complaint poses a conflict of interest for the individual, the Title IX Team member will contact the Title IX Coordinator immediately and the Title IX Coordinator will make any substitutions the Title IX Coordinator deems appropriate. After the Conflict of Interest Actual knowledge notice period has passed, the Title IX Coordinator will send a written “Final Title IX Team Assignment” to the Complainant(s) and Respondent(s).

**iii. Title IX Team Member Notification**

The Title IX Team member(s) will send written notification to the Complainant and the Respondent that the formal investigation has started, along with the relevant conduct provision(s) at issue and the potential sanctions and disciplinary actions if a violation of the policy is found.

**iv. Investigative Interviews**

The Title IX Team member(s) will conduct interviews of the Complainant, the Respondent, and any witnesses identified by those parties. The Respondent shall be provided a copy of any written report or otherwise informed of the substance of any Complainant’s allegations. Similarly, the Complainant shall be provided with a copy of any written response provided by a Respondent or otherwise informed of the substance of any Respondent’s response to the allegations.

**v. Consideration of Evidence by Title IX Team Member(s):**

The Title IX Team member(s) will gather relevant documents or evidence (e.g., law enforcement investigatory records, student and/or personnel files, etc.). Both the Complainant and Respondent will be asked to provide a list of possible witnesses as well as any written or physical evidence (e.g., text messages, social media postings, emails, photos, medical records, etc.) that they wish to be included as part of the investigation.

**vi. Prepare Investigative Report**

The Title IX Team Member(s) will prepare an Investigative Report complete with a summary of interviews, relevant documents, and next steps.

**vii. Distribute Investigative Report**

The Title IX Team member(s) shall provide any Complainant and Respondent with access to the Investigation Report as well as any non-confidential documents or evidence gathered by the Title IX Investigator(s) that were used to prepare the Investigation Report to the parties.

The evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available to the parties and their advisors, including the evidence upon which the University may not rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence. The parties will have 10 calendar days to review the evidence. The parties will be offered the opportunity to review the evidence and provide a written response that will be submitted to the investigators for the completion of the Investigation Report.

The investigator shall then prepare a written Investigation Report fairly

summarizing the relevant evidence, and provide a copy to both parties. The investigator shall submit this Investigation Report to the parties no less than ten days before any scheduled hearing. Each party may submit a written response to the Investigation Report. The purpose of the Investigative Report is to summarize factual findings, not conclusions as to whether a policy violation occurred. The investigator may also make findings that go to the credibility and cooperation of witnesses. For the privacy of all those involved, evidence shared in an electronic format will not be printable, downloadable or electronically shareable by the parties or their advisors. Exceptions may be made in compliance with Section 504 of the Rehabilitation Act of 1973.

**c. Pre-Hearing Conference**

Each party will have their own pre-hearing conference. The Title IX Coordinator will communicate to the parties, their advisors, and the Hearing Chair the date, time, and format for their Pre-Hearing Conference. The Title IX Coordinator, the Hearing Chair, and the advisor must be in attendance. While the parties are strongly encouraged to attend, they are not required to do so.

During the Pre-Hearing Conference, the advisors must share with the Sexual Misconduct and Interpersonal Violence Hearing Chair, their list of witnesses to appear at the hearing, the identity of any requested witnesses that were not questioned during the investigation, the request for any new evidence to be considered that was not submitted previously to the investigators, and the availability of the advisor and the party for hearing dates.

Evidence and witnesses may only be presented at the hearing if they were submitted to the investigators and made available to the parties for review, unless they were unavailable at the time of the investigation or the relevance was unknown until the investigative report was submitted. The Hearing Chair will address any requests to present new evidence and new witnesses at the Prehearing Conference.

The advisor is strongly encouraged to discuss lines of questioning with the Sexual Misconduct and Interpersonal Violence Hearing Chair at the Prehearing Conference to obtain guidance from the Hearing Chair on relevancy prior to the hearing. The Sexual Misconduct and Interpersonal Violence Hearing Chair will discuss the expectations and guidelines for appropriate behavior and decorum during the hearing.

After reviewing each party's witness list, the Sexual Misconduct and Interpersonal Violence Hearing Chair may, at their discretion, add names of other witnesses contained in the report for the purpose of appearing at the hearing and submitting to cross-examination.

After the conclusion of the Pre-Hearing Conferences, the Title IX Coordinator will provide each party and their advisor with written notice of the date, time, and manner for the hearing, which will typically occur no less than 5 business days after the conclusion of the final pre-hearing conference

**d. Live Hearing**

Once all the initial investigation and interviews have taken place, the live hearing will be scheduled by the Title IX Coordinator. During the live hearing, the decision-makers, called the Sexual Misconduct and Interpersonal Violence Hearing Board will facilitate the process of permitting each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions that challenge credibility (please refer to the Walsh University Student Handbook > Administrative and Board Hearing Procedures). The Hearing Board consists of the Title IX Hearing Board Facilitator, 1

faculty member, and 1 staff member.

Live hearings may be conducted with all parties physically present in the same geographic location or, at the school's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. Additionally, schools must create an audio or audiovisual recording, or transcript, of any live hearing.

**i. Cross Examination**

- a. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- b. At the request of either party, the recipient must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- c. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.
- d. If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.
- e. If a party or witness does not submit to cross-examination at the live hearing, the Hearing Board will weigh any relevant statements of the party or witness appropriately in reaching a determination of responsibility. The Hearing Board will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

**e. Advisor or Support Person of Choice: Complainant and Respondent(s)**

Complainant and Respondent have a right to be accompanied by one advisor or support person who may be, but is not required to be, an attorney, of the individual's choosing, or if the party needs an advisor, chosen/suggested by the University, during any meeting with a Title IX Team Member and including the live hearing (if applicable). That advisor or support person:

- is permitted to provide support but cannot advocate for the party or impede the investigation.
- is permitted to be someone who is a potential witness in the investigation.
- is permitted to cross examine/ask questions during the live hearing on behalf of the Complainant or Respondent, provided they are relevant to the investigation.

Any advisor that becomes disruptive in any meeting/hearing, the university reserves the right to remove the advisor from that meeting and/or prohibit them from participating in the remainder of the process. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. Scheduling of the interviews and meetings will not be unduly delayed due to the lack of availability of the advisor.

**f. Rights of the Complainant and Respondent During the investigation and resolution of a formal complaint filed, the Complainant and Respondent shall have equal rights. These include the right to:**

- have written notice of the of the allegations upon receipt of a formal complaint.
- to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- to select an advisor of the party's choice who may be, but need not be, an attorney. to send written notice of any investigative interviews, meetings, or hearings.
- to send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence.
- to freely discuss and gather evidence related to the allegation (no gag orders)
- to identify and have considered witnesses and other relevant evidence.
- to be apprised of the substance of any statements or evidence provided by the other party.
- to receive, along with their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond.
- to cross examine the Complainant or Respondent and corresponding witnesses during a live hearing.
- to appeal determinations pursuant to "Section Q. Appeal Process"

**g. Investigation Timeline**

Efforts will be made to complete a formal investigation within approximately sixty (60) days of receiving the initial formal complaint. If the University is unable to complete a formal investigation within sixty (60) days of receipt of a formal complaint, the Title IX Coordinator or Title IX Deputy assigned to the investigation, will notify any Complainant and any Respondent in writing of the need for additional time, the reason(s) that additional time is needed, and an approximate date for completion of the formal investigation.

**h. Promptness, Fairness and Impartiality**

These investigative procedures provide for prompt, fair, and impartial investigations and resolutions. The Title IX Team member shall discharge their obligations under these procedures fairly and impartially. If the Team IX Team member determines that they cannot apply these procedures fairly and impartially because of the identity of a Complainant, Respondent, or witness, or due to any other conflict of interest, the Title IX Team member shall designate another appropriate individual to administer these procedures.

**i. Dismissal of Allegation**

Walsh University must dismiss allegations of conduct that do not meet the definition Title IX Prohibited Conduct or did not occur in the University's education program or activity against a person in the United States. Dismissed allegations of Title IX Prohibited conduct and/or allegations of Non-Title IX Prohibited conduct will be referred to the Walsh University Resolution Board or the Student Conduct & Community Standards Office as the university deems most appropriate.

Furthermore, Walsh University may, at their discretion, dismiss a formal complaint or



allegations therein if t

- he complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein,
- if the respondent is no longer enrolled or employed by the school, or
- if specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

In cases of a request for a withdrawal of a formal complaint, the school must give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.

## O. Investigative Outcomes

### 1. Investigative Finding & Determination

The decision-maker (who cannot be the same person as the Title IX Coordinator or the investigator) will issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant.

This determination will be provided simultaneously in writing to both the Complainant and Respondent become final. The following are the potential outcome:

#### a. Actual Knowledge Notice of Violation

In the event the Sexual Misconduct and Interpersonal Violence Hearing Board determines that there is probable cause to believe that a violation of this policy occurred, the Title IX Coordinator will issue a “Actual Knowledge Notice of Violation” in writing to any Respondent and provide a copy of the Actual knowledge notice of Violation to any Complainant.

#### b. Actual Knowledge Notice of No-Violation

In the event that the Sexual Misconduct and Interpersonal Violence Hearing Board does not find that there is probable cause to believe that a violation of this policy occurred, the board will issue (through the Title IX Coordinator) a “Actual knowledge Notice of No Violation” in writing to any Complainant and provide a copy of the Actual knowledge notice of No Violation to any Respondent. The Title IX Coordinator will also notify the parties of their right to appeal the Investigative Findings & Determination, and, if applicable, the sanctions or disciplinary measures recommended.

### 2. Standard of Proof

The standard of proof used for all Prohibited Conduct is a preponderance of evidence. This means there is a greater than 50% chance (based on the evidence provided within the investigation) that the Respondent is responsible for the violation as indicated in the filed report.

If there is a finding of responsibility, the finding will be forwarded as follows for sanctioning or disciplinary action:

- **Staff and University Volunteers:** The Director of Human Resources and the employee’s direct supervisor. Together, in collaboration with the supervising Vice- President and Title IX Office, disciplinary action will be assigned.
- **Faculty:** The Vice-President for Academic Affairs and the faculty members’ Division Chair. Together, in collaboration with the supervising Vice-President and the Title IX Office,

disciplinary action will be assigned.

- **Students:** The Associate Dean of Students/Chief Conduct Officer. Sanctions will be assigned accordingly.

## **P. Disciplinary Action/Sanctioning**

Depending on the nature of the charges, the disciplinary actions and sanctions include:

### **1. For Students:**

#### **a. Sexual Assaults or Attempted Sexual Assaults**

##### **i. Level IV: Suspension or Expulsion Status:**

Recommendation to the Vice President for Student Affairs/Dean of Students for suspension (minimally 1 academic semester) or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.

#### **b. Domestic Violence/Dating Violence**

##### **i. Level II: Community Probation Status:**

Behavior contract; loss of access to University facilities and services; loss of guest visitation privileges; restrictions of visitation to certain residence halls or campus areas; weekends off campus.

##### **ii. Level III: University Probation Status:**

Loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of access to University facilities and services; loss of residency/community privileges; restitution, if applicable; residence hall reassignment.

##### **iii. Level IV: Suspension or Expulsion Status:**

Recommendation to the Vice President for Student Affairs/Dean of Students for suspension or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.

#### **c. Sexual Misconduct**

##### **i. Level II: Community Probation Status:**

Behavior contract; loss of access to University facilities and services; loss of guest visitation privileges; restrictions of visitation to certain residence halls or campus areas; weekends off campus.

##### **ii. Level III: University Probation Status:**

Loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of access to University facilities and services; loss of residency/community privileges; restitution, if applicable; residence hall reassignment.

##### **iii. Level IV: Suspension or Expulsion Status:**

Recommendation to the Vice President for Student Affairs/Dean of Students for suspension (minimally 1 academic semester) or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.

**d. Sexual Harassment or Stalking**

**i. Level III: University Probation Status:**

Loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of access to University facilities and services; loss of residency/community privileges; restitution, if applicable; residence hall reassignment.

**ii. Level IV: Suspension or Expulsion Status:**

Recommendation to the Vice President for Student Affairs/Dean of Students for suspension (minimally 1 academic semester) or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.

**e. Retaliation**

Charges of retaliation are as separate matter from the Title IX issues and will be addressed promptly through the student conduct system.

**2. For Employees:**

**a. Walsh University Employee Handbook: Professional and Support Staff**

Section A.18: “Disciplinary Action: Sexual Misconduct and Interpersonal Violence Walsh University prohibits all forms of sexual misconduct, including, but not limited to Prohibited Conduct. Such conduct violates Walsh University’s values and can cause disruption to the living, learning and work environment of students, employees, University volunteers, and other community members. Depending on the seriousness of the problem, violations of this type of prohibited conduct by employees will result in the following types of disciplinary action: verbal warning, written warning, no contact orders, job restrictions or reassignments, probation, suspension and discharge.”

**b. Walsh University Employee Handbook: Faculty**

If the faculty member is found in violation of any form of Prohibited Conduct, faculty will face “appropriate and necessary discipline up to and including termination.” Also refer to moral turpitude discussion regarding tenured faculty in the Faculty Handbook.

**c. Walsh University Volunteer Policies (University Volunteer Handbook, pg. 9)**

**i. Volunteer Code of Conduct:** “Harassment of any nature, abuse, alcohol/drug use, and discrimination will not be tolerated in any form. University volunteers will behave with the utmost respect and be caring, supportive and friendly in nature at all times in their positions. Staff shall act in a reciprocal nature and infractions will not be tolerated. The University has the right to discipline a University volunteer who does not conduct themselves in an appropriate and professional manner.”

**ii. University Volunteer Dismissal Policy:** “Dismissal of University volunteers may occur. Prior to dismissal and depending on the seriousness of the infraction, the sponsoring University department or division volunteer supervisor may issue a verbal warning, followed by a written warning. Activities that may warrant immediate dismissal can include but are not limited to the following: poor performance, abuse (sexual or physical), Prohibited Conduct (depending upon the seriousness), alcohol or drug use/abuse, insubordination, falsifying information, illegal or violent acts, and breach of confidentiality. These actions once reported

and investigated by the sponsoring University department or division volunteer supervisor will be discussed with the Director of Human Resources and decided upon in terms of whether or not they warrant immediate dismissal. The University volunteer can be dismissed for just cause without warning. All warnings and reports should be placed on file for record and will be treated as confidential in nature. The dismissal process will be dependent on the level of seriousness of the infraction. Volunteers serve at the sole discretion of Walsh University. See paragraph 7 of the volunteer agreement.”

**d. Retaliation**

Charges of retaliation are as separate matter from the Title IX issues and will be addressed promptly through the Human Resources office in collaboration with the employee’s direct supervisor.

## **Q. Appeal Process**

The Complainant or Respondent has the right to appeal a determination and recommended sanctioning only on the following grounds:

- 1) There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the investigating Title IX Team Member or Sexual Misconduct and Interpersonal Violence Hearing Board Member, would result in a different decision,
- 2) There was a procedural error significant enough to call the outcome into question, and/or
- 3) The sanction or disciplinary action imposed is disproportionate to the offense.

Appeals are not intended to be full re-hearings of the formal complaint and investigation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. This is not an opportunity for Appeal Review Board members to substitute their judgment for that of the original hearing body merely because they disagree with its finding and/or sanctions.

Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so. Complainant and Respondent will be notified, simultaneously, in writing if a change is made to the investigative finding and when results become final.

### **1. Method of Appeal**

Complainant and Respondent may file a written appeal with the Vice-President for Student Affairs/Dean of Students (or designee) within seven (7) calendar days from the date of the written decision. The appeal must be in writing and contain the following:

- 1) Name of the Complainant
- 2) Name of the Respondent
- 3) A statement of the outcome of the investigation, including disciplinary action or sanctioning recommendations, if any
- 4) A detailed statement of the basis for the appeal including the specific facts, circumstances, and argument in support of it, and requested action, if any

The non-appealing party will have an opportunity to provide a written response to the request for appeal to the Vice-President for Student Affairs/Dean of Students (or designee). The written response must be submitted within seven (7) calendar days of receipt of Request for Appeal.

\*Per University policy, third parties are unable to utilize the institutional process as they are not

under the University's jurisdiction, and must be addressed through appropriate administrators, Campus Police, and/or local enforcement.

## **2. Resolution of the Appeal**

The Vice-President for Student Affairs will generally resolve the appeal within fourteen (14) days of receiving it and may take any and all actions that they determine to be in the interest of a fair and just decision. The decision of the Vice-President for Student Affairs/Dean of Students is final. The Vice-President for Student Affairs/Dean of Students shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the Sexual Misconduct and Interpersonal Violence Hearing Board previous written determination and/or the sanctions and remedial measures imposed. The written statement shall be provided to the Complainant, Respondent, and the Title IX Coordinator within ten (10) days of the resolution. Sanctions imposed are then implemented immediately, pending the outcome.

## **R. Annual Training for Conduct and Disciplinary Proceedings**

Annual training on issues related to sexual misconduct and interpersonal violence is provided for all university officials involved in Walsh University's Title IX process and conduct and disciplinary proceedings. Any investigative procedures implemented will be conducted by officials who have received annual training on issues related to sexual misconduct and interpersonal violence and how to conduct an investigation that protects the safety of victims and promotes accountability.

**Title IX Coordinator, Title IX Deputies, Chief Conduct Officer, Conduct Officers, Sexual Misconduct and Interpersonal Violence Hearing Board, and Appellate are annually trained in:**

- Title IX, VAWA, Clery legislation and statutes
- Neurobiology of trauma
- Definitions of sexual assault, domestic violence, dating violence, and stalking
- Information about the causes and effects of sexual assault, domestic violence, dating violence and stalking
- The ways victims respond to trauma/tactics of offenders
- Information on the issue of consent in sexual assault cases
- Confidentiality
- Supportive/interim measures
- Conduct and Hearing Procedures
  - Basic Procedure for proceedings
  - Addressing conflicts of interest
  - Evidence gathering and use
  - Questioning witnesses
- Disciplinary action and sanctioning
- Grievance appeals process

**The Director of Human Resources, President, Vice-President for Academic Affairs, Vice Presidents, are annually trained in:**

- Title IX, VAWA, Clery legislation and statutes
- Definitions of sexual assault, domestic violence, dating violence, and stalking
- Information about the causes and effects of sexual assault, domestic violence, dating violence and stalking
- The ways victims respond to trauma/tactics of offenders
- Information on the issue of consent in sexual assault cases
- Confidentiality
- Supportive/interim measures
- Conduct and hearing procedures

- Basic procedure for proceedings
- Disciplinary action and sanctioning
- Grievance appeals process

**Student Conduct Board is annually trained in:**

- Title IX, VAWA, Clery legislation and statutes
- Definitions of sexual assault, domestic violence, dating violence, and stalking
- Information about the causes and effects of sexual assault, domestic violence, dating violence and stalking
- Confidentiality
- Supportive/interim measures
- Conduct and Hearing Procedures
  - Basic procedure for proceedings
  - Addressing conflicts of interest
  - Evidence gathering and use
  - Questioning witnesses
- Disciplinary action and sanctioning
- Grievance appeals process