

# SEXUAL MISCONDUCT COMPLAINT RESOLUTION PROCESS

Effective Date: September 2017

## I. INTRODUCTION AND GENERAL PROCEDURES

### *Introduction*

Northwestern University is committed to providing a safe and nondiscriminatory environment for all members of its community. The University's *Policy on Sexual Misconduct* prohibits sexual assault, sexual exploitation, stalking, dating violence, domestic violence, sexual harassment, and retaliation. The procedures below outline the process the University follows when it receives a report alleging a violation of the *Policy on Sexual Misconduct*. The Office of Equity ("the Office" or "Title IX staff") is responsible for handling reports alleging sexual misconduct. All reports will be handled in a prompt, fair, and impartial manner in accordance with Title IX, the *Violence Against Women Act*, the *Illinois Preventing Sexual Violence in Higher Education Act*, and other relevant laws and regulations, applicable University policies, and these guidelines.

The process described below is Northwestern's internal University process to determine whether Northwestern's policy has been violated and is not a court system. As such, Northwestern's process does not use the same rules of procedure and evidence as those used by courts or law enforcement to investigate or adjudicate criminal or civil legal violations. A victim of sexual violence or other crime has the right to simultaneously file and pursue a criminal complaint with law enforcement and a complaint with the University if he or she chooses, and to be assisted by the University in notifying law enforcement authorities if he or she chooses, or to decline to notify such authorities. Parties may also have options to file civil actions in court.

Because allegations of sexual misconduct can sometimes raise challenging new issues and involve competing interests, the University reserves discretion to take reasonable actions to address those issues in a manner consistent with the spirit of the applicable policies and these guidelines, while preserving fairness for both parties and maintaining the integrity of the resolution process.

### *Participant Roles*

- A **complainant** is the person who reports a concern and/or who has been impacted by an alleged policy violation. (This person is called a **reporter** for purposes of other conduct violations handled in the Office of Student Conduct.)
- A **respondent** is the person who is alleged to have violated University policy.
- **Parties** is a term that refers to the complainant and the respondent collectively.
- A **witness** is a person who has direct or indirect knowledge related to specific aspects of a case.
- An **advisor** is a support person who may be present to provide support to a complainant or respondent throughout an investigation and/or hearing. An advisor may not also serve as a witness in the same matter.

### ***Participation in Process***

The University invites complainants and witnesses to participate fully in the complaint resolution process. In order for the University to investigate a complaint and/or enable a respondent to fully respond to the allegations, most situations will require the complainant's participation and that their identity be disclosed to the respondent. If a complainant decides not to participate, but wants disciplinary action to be taken, the University will determine whether it is possible to move forward with a case without the participation of the complainant. In some cases, it will not be possible for disciplinary action to be taken without the participation of the complainant.

When individuals report allegations of sexual misconduct to the University and do not consent to the disclosure of their names and/or do not disclose the identity of the alleged offenders or identifiable information about the alleged offenders, the University's ability to respond to the complaints may be limited. In cases where an individual reporting sexual misconduct requests anonymity or does not wish to proceed with an investigation, the University will attempt to honor that request but, in some cases, the Title IX Coordinator or Deputy Title IX Coordinator for Students, or designee may determine that the University needs to proceed with an investigation based on concern for the safety or well-being of the broader University community (e.g., risk of future acts of sexual violence or a pattern of sexual misconduct). Northwestern reserves the right to take appropriate action in such circumstances, including in cases when the individual reporting the misconduct is reluctant to proceed; however, the University will not compel an individual to participate.

The University expects respondents to participate fully in all aspects of the complaint resolution process. If a respondent elects not to participate in any part of the process, the University may proceed without the respondent's participation. Respondents will be held accountable for any outcomes issued, even if they decline to participate.

All participants have the responsibility to be completely truthful with the information they share at all stages of the process. Any individual who knowingly or intentionally provides false information as part of a report or investigation under this Policy will be subject to discipline in accordance with the procedures set forth in the Student Handbook, Faculty Handbook, or Staff Handbook. This provision does not apply to a good faith report that is not substantiated or proven by a preponderance of the evidence.

### ***Privacy and Sharing of Information***

The University considers complaints and investigations of sexual misconduct to be private matters for the parties involved. For that reason, the University will protect the identity of persons involved in reports of sexual misconduct to the best of its ability. The University will only share personally identifiable information with persons with a need to know, in order for the University to investigate and respond or to deliver resources or support services. The University does not publish the names nor post identifiable information about persons involved in a report of sexual misconduct in the University Police Daily Crime Log (Blotter) or elsewhere online. However, the University cannot promise complete confidentiality or privacy in the handling of sexual misconduct reports or complaints.

All participants in an investigation of sexual misconduct will be informed that confidentiality helps enhance the integrity of the investigation, protect the privacy interests of the parties and protect the participants from statements that might be interpreted to be retaliatory or defamatory. For these reasons, the complainant and respondent will be asked at the beginning of the investigation to keep the information related to the investigation and resolution private, to the extent consistent with applicable law. Witnesses and advisors will be asked to maintain complete confidentiality, to the extent consistent with applicable law.

The University reserves the right to share information regarding the case with other appropriate parties on a need-to-know basis in accordance with FERPA and other applicable law.

### ***Retaliation***

Any participant in a sexual misconduct complaint who is aware of possible retaliation or has other concerns regarding the matter should report these concerns to the Title IX Coordinator, who shall take appropriate action to address such conduct in a prompt and equitable manner. Retaliation is explained in Policy Section D of the *Policy on Sexual Misconduct*.

### ***Case Resolution Timeline***

Though the University strives to resolve all cases in a timely manner, the typical timeline for a case varies based on the circumstances of the case. In most cases, the University investigates and resolves reports of policy violations, including initial determination of outcomes and sanctions, within 60 days of the complainant meeting with the investigator(s). Extensions of time beyond this 60 day timeframe may occur for good cause including, but not limited to, breaks in the academic calendar, the availability of the parties and witnesses (including due of leave of absence), the scope of the investigation, need for interim actions, and unforeseen or exigent circumstances. The parties will be notified of any extension. In cases where there is a simultaneous law enforcement investigation, the University may need to temporarily delay its investigation while law enforcement gathers evidence. However, the University investigation will generally proceed with its investigation and resolution of a complaint during any law enforcement investigation.

### ***Conflicts of Interest***

A list of investigators, panel members, and appeal reviewers who may make findings in sexual misconduct matters is posted at: <http://www.northwestern.edu/student-conduct/about-us/hearing-officers-investigators-panel-members/index.html>. Northwestern reserves the right to use an investigator, panel member, or appeal reviewer not on this list as it deems necessary. Parties have the opportunity to raise the issue of a potential conflict of interest or perceived bias within 2 days of their initial meeting with a Title IX staff member. Parties also have the opportunity to raise the issue of a potential conflict of interest or perceived bias involving panel members when they receive the investigative report in advance of a panel hearing. The Title IX Coordinator or designee will determine whether a conflict of interest exists. No investigator, panelist, or appeal reviewer will make findings or determinations in a case in which they have a conflict of interest.

### ***Standard of Evidence***

The University uses the preponderance of the evidence standard in investigations and hearings of complaints alleging sexual misconduct and any related violations. This means that

the investigation and hearing determine whether it is more likely than not that a violation of the policy occurred. A preponderance of the evidence means that over 50% of the information supports a finding that the misconduct occurred.

### ***Advisor/Legal Counsel***

Complainants and respondents may be accompanied by one advisor throughout the investigation and any hearing process, provided that the involvement of the advisor does not result in an undue delay of the process. It is the responsibility of each party to coordinate scheduling with their advisor for any meetings or hearings. An advisor is a support person who is present to provide support to a complainant or respondent throughout an investigation and/or hearing. An advisor may not speak, write, or otherwise communicate with an investigator, hearing officer or panel on behalf of the complainant or respondent. Advisors may not engage in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or individuals involved in resolving the complaint. Advisors who do not abide by these guidelines may be excluded from the process.

In any matter involving a complaint of sexual assault, stalking, or dating or domestic violence, the advisor may be any person of the party's choosing, including an attorney. However, an advisor may not also serve as a witness in the same matter. Further, the advisor is still limited to the supportive and not participatory role described above. A representative from the University's Office of General Counsel may attend any proceeding where an attorney serving as an advisor is present. In all other matters, advisors cannot be a witness or party in the matter or a related matter, a family member of the complainant or respondent, or an attorney. A union representative may serve as an advisor, where applicable.

## **II. REPORTING SEXUAL MISCONDUCT**

### ***Time Limitations for Reporting Sexual Misconduct***

There is no time limit for when an incident of sexual misconduct may be reported; however reports should be made as soon as possible after the incident, preferably within one year, because the passing of time makes a review of the evidence more difficult and the memories of involved parties may become less reliable.

The Title IX Coordinator reserves the right to conduct an initial inquiry, investigate, or otherwise address any report, regardless of the time it is made, based on concern for the safety or well-being of the University community.

### ***Reporting Sexual Misconduct***

A report of a violation can be submitted by anyone by any means. Reports of sexual misconduct may be submitted electronically using an incident report form, which can be found here: [bit.ly/NUReportSexualMisconduct](http://bit.ly/NUReportSexualMisconduct). Reports can also be submitted by email to: [TitleIXReport@northwestern.edu](mailto:TitleIXReport@northwestern.edu), or in person to the Office of Equity, 1800 Sherman, Suite 4-500, 847-491-3881. While anonymous incident reports will be reviewed by the Title IX Coordinator, the University's ability to address alleged misconduct reported by anonymous sources is significantly limited.

Upon receipt of a report of a violation, either from someone other than the alleged victim (e.g., a witness or a colleague), or directly by the alleged victim, a Title IX staff member will contact the alleged victim to provide information about resources and options. The information provided by the Title IX staff member will generally include information about medical and confidential

counseling and support resources; options for pursuing a complaint and/or reporting the incident to law enforcement; how to request a protective order or no-contact directive; how to request interim measures and accommodations; how to preserve evidence; where to access more information; and an invitation to meet with or speak to a Title IX staff member.

### **III. INITIAL INQUIRY**

When the Office of Equity receives a report of sexual misconduct, Title IX staff will begin an initial inquiry as soon as practicable, generally within one week. This will most frequently begin with an attempt to gain additional information from the complainant or alleged victim, preferably through an in-person meeting. The scope and timing of further action will depend upon a number of factors, including but not limited to, whether the identity of the alleged victim is known; whether the complainant/alleged victim is willing to participate in an investigation and/or hearing; whether the complainant/alleged victim requests anonymity or confidentiality; whether the respondent is affiliated with the University; and whether the University has an obligation to proceed with an investigation based on concerns for the safety of the broader University community, regardless of the complainant's wishes. Following an Initial Inquiry, possible next steps include:

- **Close the Case:** In order for a case to be referred for a full investigation, there must be sufficient information to believe a policy violation may have occurred and the respondent may be responsible. The Office may dismiss a case when insufficient information exists to move forward or when the alleged misconduct—even if substantiated— would not be a violation of policy. The Office may, in its discretion, reopen a case in the future if additional information becomes available or a complainant who was unwilling to pursue formal resolution changes their mind (consistent with the time limitations discussed above).
- **Informal Action:** Informal action involves measures taken by the University in response to a situation or report of sexual misconduct when formal resolution is not desired by the complainant or when there is not enough information to proceed with a formal resolution process against a known Respondent. Mediation will not be used to resolve complaints involving sexual misconduct. See section V below for further information.
- **Formal Resolution:** The Title IX Coordinator, Deputy Title IX Coordinator for Students, or designee may determine that there is reasonable information to suggest a policy violation may have occurred. In these cases, the complaint will proceed to further investigation and formal resolution. See section VI below for further information.

### **IV. INTERIM MEASURES AND ACCOMMODATIONS**

The Title IX Coordinator, Deputy Title IX Coordinator for Students, or designee will also determine whether interim measures and accommodations should be taken while the case is pending. Interim measures and accommodations may include measures taken prior to the formal resolution to ensure the safety and security of the campus community and/or following the resolution of a case. These measures may be applied to the complainant, the respondent or the broader University community and include (but are not limited to):

- A no-contact directive placed between members of the community
- Changes in academic, work, or living arrangements
- Assistance in requesting academic allowances
- A formal request or warning that a community member cease certain behaviors

- Removal of privileges or suspension of activity (including attendance in a specific class)
- Issuance of a timely warning to the University community
- Interim relocation or removal from campus housing (pursuant to the procedures set forth in the Student Handbook)
- Interim suspension or administrative leave pending resolution (pursuant to the procedures set forth in the applicable Student, Faculty, and Staff Handbooks).
- Issuance of a hold on academic and/or financial records pending outcome of proceedings or to enforce a sanction (a hold may prevent, among other things, registration, enrollment, matriculation, the release of transcripts, and graduation/the awarding of a degree)

## **V. INFORMAL ACTION**

Informal action can be used in certain sexual misconduct cases as a way to prevent the recurrence and remediate the impact of alleged sexual misconduct. Informal action involves measures taken by the University in response to a situation or report of sexual misconduct when formal resolution is not desired by the complainant or when there is not enough information to proceed with a formal resolution process against a known respondent. Informal action is not used when formal resolution is desired by a complainant and the respondent's identity is known.

Informal action does not result in findings related to responsibility or in sanctions.

Informal actions include, but are not limited to:

- A no-contact directive placed between members of the community
- Changes in academic, work, or living arrangements
- An educational meeting with the respondent
- Training for a group or unit
- An advisory letter
- Relocation or removal from a residence hall or fraternity/sorority-affiliated on-campus housing

## **VI. FORMAL RESOLUTION**

### ***Notification to Respondent***

The sexual misconduct complaint resolution process operates under a standard of fairness, which includes an opportunity for the respondent to be notified of the alleged misconduct and the policy violations under consideration and an opportunity to be heard. As such, if a case is referred for formal resolution, the Office will notify the respondent of the alleged misconduct and the respondent will be given an opportunity to respond. The notification will typically include a brief description of the alleged misconduct, a list of any University policies allegedly violated, and a description of the steps toward resolution. The University may modify the list of policies allegedly violated based on additional information revealed during investigation.

### ***Investigation***

The University will investigate complaints proceeding through formal resolution. Depending upon the circumstances, one or more investigators will be assigned from the Office of Equity or the Office of Human Resources. In some cases, another University office may conduct an



investigation under the direction of these offices, or an outside investigator may be retained. All investigators are trained on Title IX and the University's policies and procedures. Further, the Title IX Coordinator and the Deputy Title IX Coordinator for Students will be trained as hearing officers for purposes of adjudicating other potential violations of the student code of conduct arising out of the same complaint. Depending on the circumstances and in its discretion, the University may consolidate for investigation and resolution multiple complaints involving the same respondent; and/or complaints where the parties have made sexual misconduct allegations against each other.

During an investigation, the complainant will have the opportunity to describe their allegations and present supporting evidence to the investigator. The respondent will have the opportunity to hear the allegations, respond to them, and present supporting evidence to the investigator. Investigation meetings are not electronically recorded by the University, and may not be recorded by any participant. Parties and witnesses may take notes during investigation meetings. Generally, the investigator will meet with each party and each witness separately. In some cases, the investigator may interview the parties and/or witnesses more than once. The parties may submit additional materials or information to the investigator following their interview(s). In all cases, both the complainant and respondent will have equal opportunities to share information and have their information considered.

The complainant and the respondent will both have the opportunity to present names of witnesses they suggest the investigator solicit information from and questions they request that the investigator ask the other party. Complainants and respondents may only present factual witnesses and may not present character or expert witnesses. The investigator will take the lists provided by the complainant and respondent into consideration when identifying whom they will interview and what questions they ask, but these decisions remain in the investigator's discretion. The investigator may also choose to interview other witnesses not identified by the parties.

### ***Withdrawal***

Prior to the conclusion of a sexual misconduct investigation, the complainant may request to withdraw the complaint by contacting the Title IX Coordinator in writing.

### ***Types of Resolution***

Following investigation, the matter will be resolved using either Administrative Resolution or a Panel Hearing, as discussed below.

#### ***A. Administrative Resolution***

Administrative resolution is used in all sexual misconduct cases involving faculty, staff, or third party respondents, and in cases involving student respondents that do not have the potential to result in separation from the University of a respondent (i.e., suspension, exclusion, degree revocation, expulsion, or group dissolution). The potential of an alleged violation involving a student respondent to result in separation from the University will be determined by the Title IX Coordinator, Deputy Title IX Coordinator for Students, or designee following initial inquiry.

Administrative resolution involves a determination made by the Office of Equity of whether the *Policy on Sexual Misconduct* has been violated. In addition, the Office may make findings on other potential policy violations arising out of the same complaint in place of the student conduct administrative hearing process (UHAS) or other University investigation process that otherwise would have been applicable.

The complainant and the respondent will both be notified simultaneously in writing of the findings of the administrative resolution. In the event a violation is found, the investigator will also provide their findings to the appropriate University office.

- For student respondents, in the event a policy violation is found, the Title IX Coordinator or Deputy Title IX Coordinator for Students, in consultation with the Director of the Office of Student Conduct or designee, will determine what sanctions or corrective actions should be imposed on the respondent in accordance with the Sanctions section of the Student Handbook.
- For staff respondents, in the event a policy violation is found, the Title IX Coordinator will provide findings to the Office of Human Resources and the respondent's manager(s), who are responsible for deciding what sanctions or corrective actions should be imposed on the respondent, in accordance with the procedures set forth in Staff Handbook.
- For faculty respondents, in the event a policy violation is found, the Title IX Coordinator will provide findings to the faculty member's Dean or Associate Dean for Faculty and the Associate Provost for Faculty. Any sanctions or corrective actions imposed will be determined in accordance with the procedures set forth in the Faculty Handbook.
- For third party respondents, findings of a violation will be provided to the appropriate University office for further action consistent with the findings.

Notification of findings and sanctions may be provided to the complainant and the respondent in separate correspondence from the investigator and the office imposing the sanction. Notification to the complainant will include findings related to violations of policy, remedies offered or provided to the complainant, sanctions imposed on the respondent that directly relate to the complainant, and any other steps the University has taken to prevent the recurrence and eliminate a hostile environment, if such was found to exist. In a case related to alleged sexual assault, stalking, or dating or domestic violence, the notification of outcome will also include the rationale for the findings related to violations of policy and all sanctions imposed on the respondent, not just those directly related to the complainant. The respondent generally will not be notified of the individual remedies offered or provided to the complainant. Complainants and respondents are informed of appeal procedures and any changes to the outcome that occur prior to the time that such outcome becomes final. The University encourages the parties to maintain confidentiality of all communication related to findings and sanctions.

### ***B. Panel Hearings in Certain Student Cases***

In cases where the Title IX Coordinator, Deputy Title IX Coordinator for Students, or designee has determined, based on initial inquiry, that the alleged violation has the potential to result in separation of a respondent from the University (i.e., suspension, exclusion, degree revocation, expulsion, or group dissolution), the matter will be heard in a panel hearing pursuant to the University Hearing and Appeals System (UHAS) Panel Hearing Process. That process is set forth in **Appendix A**.



## VII. SANCTIONS

When a violation of the Policy on Sexual Misconduct is found, sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. In addition, the University may take steps to address the effects of the conduct on victims and others, including, but not limited to, counseling and support resources, academic and housing assistance, change in work situations, leaves of absence, and training or other preventative measures. Sanctions and remedial actions aim to eliminate any hostile environment, prevent sexual misconduct from recurring, and remedy any discriminatory effects on a complainant or others. Sanctions and corrective actions can include, but are not limited to:

- *Verbal warning*
- *Written warning*
- *Advisory letter*
- *Conduct review*
- *Disciplinary hold on academic and/or financial records*
- *Performance improvement/ management process*
- *Required counseling*
- *Required training or education*
- *Campus access restrictions*
- *Loss of oversight, teaching or supervisory responsibility*
- *Probation*
- *Demotion*
- *Loss of pay increase*
- *Transfer (employment)*
- *Revocation of offer (employment or admissions)*
- *Disciplinary suspension*
- *Suspension with pay*
- *Suspension without pay*
- *Exclusion*
- *Expulsion*
- *Degree revocation*
- *No trespass order issued by NUPD (with respect to campus locations)*
- *No contact directive (with respect to an individual)*
- *Loss of privileges*
- *Termination of employment*
- *Revocation of tenure*
- *Termination of contract (for contractors)*

## VIII. APPEALS

### ***A. Appeals After Administrative Resolution***

The complainant or respondent may appeal the findings in an administrative resolution, and, if sanctions are imposed, a determination of sanctions. An appeal will be handled in a manner consistent with any applicable terms or procedures in the Faculty Handbook, Staff Handbook, or

applicable contract. Otherwise, the terms and procedures outlined in these guidelines will control.

The appeal must be made within five (5) calendar days of the date of the written notification of the findings or, if sanctions are imposed, the determination of sanctions. An appeal must be in writing and specify the basis for the appeal. The original finding is presumed to have been decided reasonably and appropriately by a preponderance of the evidence. The only grounds for appeal are as follows:

- New information discovered after the investigation that could not have reasonably been available at the time of the investigation and is of a nature that could materially change the outcome;
- Procedural errors within the investigation or resolution process that may have substantially affected the fairness of the process;
- An outcome (findings or sanctions) that was manifestly contrary to the weight of the information presented (i.e., obviously unreasonable and unsupported by the great weight of information).

In the event sanctions were imposed, it shall be in the discretion of the Title IX Coordinator and the sanctioning office whether the sanctions shall be implemented or stayed pending resolution of an appeal.

Appeals will be handled by the following reviewers, who may delegate the review of an appeal to a designee, and will delegate review in any case in which they cannot serve as an impartial reviewer.

- An appeal of a complaint against a student should be addressed to:  
*Sarah K. Wake*  
*Interim Associate Vice President for Equity*  
*1800 Sherman Ave, Suite 4-500*  
*Evanston, IL 60208*  
*(847) 467-0976*  
[sarah.wake@northwestern.edu](mailto:sarah.wake@northwestern.edu)
- An appeal of a complaint against a faculty member should be addressed to:  
*Lindsay Chase-Lansdale*  
*Associate Provost for Faculty*  
*Rebecca Crown Center*  
*633 Clark Street*  
*Evanston, IL 60208*  
*(847) 467-6906*  
[lcl@northwestern.edu](mailto:lcl@northwestern.edu)
- An appeal of a complaint against a staff member or third-party should be addressed to:  
*Pamela S. Beemer*  
*Associate Vice President for Human Resources*  
*720 University Place*  
*Evanston, IL 60208*

(847) 491-7505  
[p-beemer@northwestern.edu](mailto:p-beemer@northwestern.edu)

The decision on an appeal will be issued as expeditiously as possible, usually within 21 days, though this may vary based on the scope of the appeal or unforeseen circumstances. The reviewer may review the full case, beyond the aspects of the case outlined in the request for appeal. If the reviewer does not find that any of the three grounds for appeal are present in the case, the outcome will be upheld. If the reviewer finds that any of the grounds for appeal are present in the case, they may amend the outcome, may issue a new outcome, or may refer the matter back to the investigator for further consideration. A final outcome on an appeal is not subject to further appeal.

### ***B. Appeals After Panel Hearing***

In student cases that are resolved through a Panel Hearing, the parties may request an appeal, which is conducted using the process set forth in the University Hearing and Appeals System (UHAS) (See **Appendix A**).

## APPENDIX A

### UNIVERSITY HEARING AND APPEALS SYSTEM (UHAS) PANEL HEARING PROCESS

#### *Panel Hearings*

Panel hearing are utilized in cases that have the potential to result in separation from the University, either because the respondent chose a panel hearing (instead of an administrative hearing) or because the case involves allegations of sexual misconduct. The following section outlines the investigative and hearing processes utilized in a Panel Hearing.

#### Panels

Panel members are students, faculty, and staff from the University community. Panel members apply annually and are selected by the Office of Student Conduct. The Vice President for Student Affairs and the president of the Associated Student Government, or designee, approve the selection of all Panel members.

The Panel for cases not related to allegations of sexual misconduct will typically be made up of five members. The Panel for cases related to allegations of sexual misconduct will be made up of three members and all members will be faculty or staff who have completed training to hear cases related to sexual misconduct. (Note: Students do not serve on panels for cases related to alleged sexual misconduct due to privacy concerns for both the reporter and the respondent. This difference in the make-up of the panel came at the request of and after extensive consultation with Northwestern students.) The Office of Student Conduct should do its best to diversify each Panel—both in terms of social identities and affiliations within the University. Reporters and respondents will be provided a list of all potential panel members prior to the panel hearing and will be given the opportunity to express concern about any potential panel member's ability to act impartially in hearing their case. Decisions related to panel members' participation in their hearing will be made by the Panel Coordinator from the Office of Student Conduct.

In cases not related to sexual misconduct where there are exigent circumstances (including but not limited to concern for the safety or security of the University community or the academic progress of a student) or in cases where the timeline requires the case to be heard when a five-person Panel cannot reasonably be assembled (including but not limited to finals weeks or periods of University break), a three-member Panel may be used in place of a five-member Panel and/or trained Hearing Officers who have no prior involvement in the case can serve as Panel members.

### Format of Panel Hearings

A Panel Hearing will include the members of the Panel, a Panel Coordinator from the Office of Student Conduct, and, if applicable, the Deputy Title IX Coordinator for Students, or designee. The role of the OSC Panel Coordinator is to ensure that the Panel follows the process set forth in this document, clarify any questions about the policies and procedures, and provide consult on available sanctions and past precedent. The role of the Deputy Title IX Coordinator for Students is to observe the hearing and ensure compliance with all aspects of the Sexual Misconduct Complaint Resolution Process.

The reporter and respondent will each be given an opportunity to independently speak to the Panel. During this time, they should provide their perspective on policy violations given the findings of the investigator. The reporter and the respondent will not meet with the Panel together but rather will be given individual time with the Panel. The reporter's and the respondent's time with the Panel will be structured as follows:

- Statement to the Panel: Ten (10) minutes to present a statement to the Panel
- Questions from the Panel
- Final Statement: Five (5) minutes to provide any concluding comment

Once the Panel has met with the reporter and the respondent, the Panel may meet privately with the investigator. During this time, Panel members will ask any clarifying questions they have of the investigator. They will consider the questions submitted by the reporter and the respondent when determining which questions to ask the investigator.

The Panel will deliberate the policy violations and sanction decisions in private with the OSC Panel Coordinator and, if applicable, the Deputy Title IX Coordinator for Students. The investigator will not be present but will remain available to the Panel for additional questions as needed. During their deliberations, the Panel members will utilize the findings presented by the investigator and the information they heard from the reporter and the respondent to determine responsibility for each alleged policy violation. A majority vote is needed to find a respondent responsible or not responsible for each policy in question. Each member of the Panel will have one vote.

If the Panel finds the respondent responsible for any policy violations, the Panel will determine appropriate sanctions. The Panel can consult the investigator, as well as the OSC Panel Coordinator, when considering sanction options, but the decision about which sanctions to issue is solely at the discretion of the Panel. A majority vote is needed to issue a sanction. Each member of the Panel has one vote.

### *Notification of Outcome*

Upon the conclusion of a hearing, the respondent will be promptly notified in writing of the outcome of the hearing including; the findings related to violations of policy, the rationale for these findings, the sanctions imposed, and the information regarding review/appeal procedures. In the case of an Administrative Hearing, this notification will be made by the Hearing Officer. In the case of a Panel Hearing, this notification will be made by the OSC Panel Coordinator.

As is required by law in cases of sexual misconduct, the reporter and the respondent will both be notified simultaneously and in writing of the outcome of the hearing and/or appeal. Notification to the reporter includes findings related to violations of policy, remedies offered or provided to the reporter, sanctions imposed on the respondent that directly relate to the reporter, and any other steps the University has taken to prevent the recurrence and eliminate a hostile environment, if such was found to exist. In a case related to alleged sexual assault, stalking, or dating or domestic violence, the notification of outcome will also include the rationale for the findings related to violations of policy and all sanctions imposed on the respondent, not just those directly related to the reporter. In all cases, the respondent generally will not be notified of the individual remedies offered or provided to the reporter.

For all cases involving an alleged violation of the Sexual Misconduct Policy, reporters and respondents are informed of appeal procedures, any changes to the outcome that occur prior to the time that such outcome becomes final, and when such outcome becomes final.

In accordance with applicable law, the University may also disclose to a victim the final result (the violation committed and any sanction imposed) of a student conduct hearing related to an alleged perpetrator of a crime of violence (alleged or attempted commission of the following offenses: arson, assault offenses, burglary, criminal homicide, manslaughter, murder, destruction/damage/vandalism of property, kidnapping/abduction, robbery, sexual assault, dating or domestic violence or stalking).

The respondent's academic program as well as other University programs (e.g., Athletics, offices of employment), may be notified of information related to a conduct case, including the outcome, whenever there is a legitimate educational interest to do so (for example, when a finding of responsibility impacts the respondent's participation in a University program, or as necessary to implement accommodations for a reporter). If Northwestern University is not a student's home institution (e.g., students who are studying abroad or on exchange at Northwestern), the University reserves the right to notify the student's home institution of serious violations of University policy or accommodations related to a student's enrollment at the home institution.

### *Record of the Hearing*

Records of all hearings are kept by the Office of Student Conduct. Any party involved is welcome to take written notes during interviews, but audio or video recordings and typed transcripts by the parties are not allowed. Any exception to this policy is the sole discretion of the director of the OSC. Deliberations by conduct administrators or Panels are never recorded by means of audio or videotaping and no transcripts are kept, and the University does not allow for the recording or transcribing of these proceedings.

Also to help protect the privacy interests of the parties, while the reporter and the respondent are in possession of the investigative report, they are not permitted to duplicate it or in any way retain a copy (including electronically) at the conclusion of the case. If a reporter or respondent wishes to view any portion of the student conduct case record, they may schedule an appointment to view the information in the Office of Student Conduct. Copies of such records are not provided to the reporter or the respondent and cannot be made by the reporter or respondent. Any exception to this policy is in the sole discretion of the OSC. Conduct case records are only shared in accordance with FERPA and other University records policies.

### *Appeals*

The parties in all cases resolved through a Panel Hearing, as well as cases resolved through an Administrative Hearing that resulted in a separation from the University may

request an Appeal. A reporter or respondent (and a victim, if the victim is not the reporter, in a case related to alleged sexual misconduct) may request an appeal of the outcome of the hearing in writing to the OSC or Deputy Title IX Coordinator for Students, if applicable, within a reasonable time as designated in the outcome letter (typically within 5 calendar days of their receipt of the outcome). The original finding and sanction are presumed to have been decided reasonably and appropriately, and the only grounds for appeal are as follows:

- New information discovered after the hearing that could not have reasonably been available at the time of the hearing and is of a nature that could materially change the outcome
- Procedural errors within the student conduct process that may have substantially affected the fairness of the hearing
- An outcome (findings or sanctions) that was manifestly contrary to the weight of the information presented during the case (i.e., obviously unreasonable and unsupported by the great weight of information)

The Appeal is not a rehearing of the case; it is a written statement specifically stating the grounds for the appeal and any supporting information. In cases involving multiple parties, the non-appealing party will be able to review the request for appeal and will be given an opportunity to submit a written response to the Appellate Panel within the same time designated for the request for appeal. The appealing party will be able to review the response.

Similar to the original investigation and hearing, the Appeal and response to the Appeal may not include any character or expert witness statements. The Appeal is solely conducted via written statements. Neither the respondent nor the reporter will be allowed to request an in-person meeting with the Appellate Panel. In an extraordinary circumstance, the Appellate Panel may request an in-person meeting with the reporter and respondent. Should the Appellate Panel request a meeting with one party, a meeting will also be requested with the other party.

The Appellate Panel will review the Appeal, the investigator's report, and the case record. The Appellate Panel may consult in confidence with other members of the University community in order to substantiate the grounds for appeal or to seek clarification of issues raised in the Appeal. (Examples might include, but are not limited to, consulting the investigator for the case on the specifics of the findings or consulting a conduct administrator about the student conduct process.)

The Appellate Panel may review the full case, beyond the aspects of the case outlined in the request for Appeal. If the Appellate Panel does not find that any of the grounds for appeal are present in the case, the Panel will uphold the outcome (findings and sanctions) of the Hearing Officers/Panel. If the Appellate Panel finds that any of the grounds for appeal are present in the case, they may amend the decision of the original Hearing Officer/Panel or may issue a new outcome (findings and sanctions). The Appellate Panel has final authority to determine the outcome of the case. No additional appeal or review can be requested or granted and all sanctions will take effect immediately. In an extraordinary circumstance, the Appellate Panel may refer the case back to the Hearing Officer or Panel for further review. In this case, the Appellate panel may recommend that alternate policies or sanctions be considered. Additionally, if a case is referred back to the Hearing Officer/Panel, the new decision of the Hearing Officer/Panel is considered final (no additional Appeal will be granted).

A written decision will be delivered to both parties by the Office of Student Conduct within a reasonable amount of time following receipt of the written appeal (typically within three weeks).



### *Appellate Panel*

A Appellate Panel will be appointed by the Vice President for Student Affairs, or designee, and will be trained annually by the Office of Student Conduct. The Appellate Panel will be made up of senior-level administrators and academic leaders who represent the Division of Student Affairs and the Office of the Provost. Three members of the Appellate Panel must be involved in each appeal decision, and decisions are made by a majority vote. In times of exigent circumstances, a conduct administrator or hearing panel member who has had no previous involvement in the case can be assigned by the OSC to fill in for a member of the Appellate Panel to ensure expediency of the decision. The OSC Panel Coordinator or designee will be privy to all Appellate Panel discussions to ensure compliance with the UHAS procedures.