

INTERIM SEXUAL MISCONDUCT AND HARASSMENT POLICY

Saint Xavier University

8/14/2020

Reviewed 08/06/2021

*The Sexual Misconduct and Harassment Policy is effective August 14, 2020. On May 6, 2020, the United States Department of Education released new Title IX regulations, effective August 14, 2020 (the "2020 Title IX Regulations"). The new 2020 Federal Title IX Regulations require modification of this policy. However, there are several lawsuits pending which seek to stay, delay or block implementation of some or all of the provisions in the 2020 Title IX Regulations. Should a court delay, stay or strike down, either temporarily or permanently, any portion of the 2020 Title IX Regulations, SXU will make any necessary modifications to this Policy, which will become effective immediately. If a court delays implementation of or strikes down all of the regulations, the University may revert back or retain the previous version of this Policy.

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ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL
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POLICY: Sexual Misconduct, Including Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation

1. Glossary

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or retaliation based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document submitted/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or retaliation based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the Saint Xavier University investigate the allegation.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of sexual harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when Saint Xavier University is in normal operations.
- *Directly Related Evidence* is evidence connected to the complaint but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
- *Education program or activity* means locations, events, or circumstances where Saint Xavier University exercises substantial control over both the Respondent and the context in which the sexual harassment or retaliation occurs and also includes any building owned or controlled by a student organization that is officially recognized by Saint Xavier University.
- *Final Determination:* A conclusion by the preponderance of the evidence that the alleged conduct occurred did or did not violate policy.
- *Finding:* A conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Grievance Process* means “Process A,” a method of formal resolution designated by the Saint Xavier University to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR § 106.45).
- *Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Panel* refers to those who have decision-making and sanctioning authority within the Saint Xavier University’s Formal Grievance process.

- *Investigator* means the person or persons charged by Saint Xavier University with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandated Reporter* means an employee of the Saint Xavier University who is obligated by policy to share knowledge, notice, and/or reports of sexual harassment and/or retaliation with the Title IX Coordinator.¹
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of the Saint Xavier University explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the Saint Xavier University.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Process A* means the Formal Grievance Process detailed below and defined above.
- *Process B* refers to the administrative resolution procedures that apply only when Process A does not, as determined by the Title IX Coordinator. For students, Process B is also called the University Conduct Board Process.
- *Recipient* means a postsecondary education program that is a recipient of federal funding.
- *Relevant Evidence* is evidence that tends to prove or disprove an issue in the complaint.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the Saint Xavier University's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the Saint Xavier University on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See Section 6., for greater detail.

¹Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

- *Student* means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with Saint Xavier University, not to exceed two/three semesters of non-enrollment.
- *Title IX Coordinator* is at least one official designated by the Saint Xavier University to ensure compliance with Title IX and the Saint Xavier University's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, Deputy Title IX Coordinators, Investigators, Hearing Board Members and any member of the Grievance Process Pool.

2. Rationale for Policy

Saint Xavier University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from Sexual Harassment, including Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, and Retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity.

Saint Xavier University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation sexual harassment or retaliation. Sexual harassment, sexual assault, domestic and intimate partner violence, stalking, and retaliation in any form are an affront to human dignity and fundamentally at odds with the Mission and Core Values of Saint Xavier University. The University encourages all members of the SXU community to participate in creating a safe, welcoming, and respectful environment on campus and in all University-sponsored program and activities. Each member of the community is expected to assume responsibility for his or her own conduct, to report behaviors that may violate this policy, and to take reasonable and appropriate actions to prevent or stop acts of sexual misconduct.

3. Applicable Scope

This policy applies to Sexual Harassment that occurs within the education program and activities of Saint Xavier University, to conduct that takes place on the campus or on property owned or controlled by Saint Xavier University, at Saint Xavier University-sponsored events, or in buildings owned or controlled by Saint Xavier University's registered student organizations. The Respondent must be a member of Saint Xavier University's community in order for its policies to apply. This community includes, but is not limited to, students,² student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers.

This policy does not apply to Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of the University's Education Programs or Activities; such conduct may be prohibited by the Student Code of Conduct if committed by a student, the Faculty Handbook if committed by a faculty member, or other University policies and standards if committed by an employee.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment

² For the purpose of this policy, Saint Xavier University defines "student" as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University.

occurs in the University's Education Programs or Activities, such as a study abroad program. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student, the Faculty Handbook if committed by a faculty member, or other University policies and standards if committed by an employee, including but not limited to Saint Xavier University's Staff and Faculty Handbooks.

4. Title IX Coordinator

The Associate Dean of Students serves as the Title IX Coordinator and oversees implementation of the Saint Xavier University's policy on sexual harassment and sexual misconduct. The Title IX Coordinator has the primary responsibility for coordinating Saint Xavier University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and retaliation prohibited under this policy.

5. Statement on Nondiscrimination

The policy described herein addresses part of the commitment outlined in the University's [Statement on Nondiscrimination](#).

6. Definition of Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Illinois view Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Acts of Sexual Harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex/gender or that is sexual that satisfies one or more of the following:

- 1) Quid Pro Quo:
 - a. an employee of the Saint Xavier University,
 - b. conditions³ the provision of an aid, benefit, or service of the Saint Xavier University,
 - c. on an individual's participation in unwelcome sexual conduct;
- 2) Sexual Harassment:
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and,
 - e. objectively offensive,
 - f. that it effectively denies a person equal access to Saint Xavier University's education program or activity.⁴
- 3) Sexual assault, defined as:
 - a) Sex Offenses, Forcible:

³ Implicitly or explicitly

⁴ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

- Any sexual act⁵ directed against another person⁶,
 - without the consent of the Complainant,
 - including instances in which the Complainant is incapable of giving consent.
- b) Sex Offenses, Non-forcible:
- Incest:
 - 1) Non-forcible sexual intercourse,
 - 2) between persons who are related to each other,
 - 3) within the degrees wherein marriage is prohibited by Illinois law.
 - Statutory Rape:
 - 1) Non-forcible sexual intercourse,
 - 2) with a person who is under the statutory age of consent of 17.
- 4) Dating Violence, defined as:
- a. violence,
 - b. on the basis of sex,
 - c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the

⁵ A "sexual act" is specifically defined by federal regulations to include one or more of the following:

Forcible Rape:

- Penetration,
- no matter how slight,
- of the vagina or anus with any body part or object, or
- oral penetration by a sex organ of another person,
- without the consent of the Complainant.

Forcible Sodomy:

- Oral or anal sexual intercourse with another person,
- forcibly,
- and/or against that person's will (non-consensually), or
- not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age[#] or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of another person,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Forcible Fondling:

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly,
- and/or against that person's will (non-consensually),
- or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

⁶ This would include having another person touch you sexually, forcibly, or without their consent.

frequency of interaction between the persons involved in the relationship. For the purposes of this definition—

- ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- iii. Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Illinois, or
- g. 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 Illinois.

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) 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.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Administrators, faculty member, staff, students, contractors, guests, and other members of the University community who commit Sexual Harassment are subject to the full range of University discipline including verbal reprimand; written reprimand; mandatory training, coaching, or counseling; mandatory monitoring; partial or full probation; partial or full suspension; fines; permanent separation from the institution (that is, termination or dismissal); physical restriction from University property; cancellation of contracts; and any combination of the same.

The University will provide persons who have experienced Sexual Harassment ongoing remedies as reasonably necessary to restore or preserve access to the University's Education Programs or Activities.

7. Online Sexual Harassment and/or Retaliation

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

Although Saint Xavier University may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to Saint Xavier University, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute, revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Saint Xavier University community.

8. Expectations Regarding Unethical Relationships

Saint Xavier University, in concert with its Mission, Vision and Core Values, is committed to the development of a learning and work environment that promotes civility and respect, and encourages collegial and professional relationships among all members of the University community. There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty member and student or supervisor and employee). These relationships may, in reality, be less consensual than perceived by the individual whose position confers power or authority. Similarly, the relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Circumstances may change, and conduct that was once welcome may, at some point in the relationship, become unwelcome.

Even when both parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant Policy violation still exists. Saint Xavier University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of Saint Xavier University. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are generally discouraged. They may also violate standards of professionalism and/or professional ethics.

This type of relationship includes student employees, including Resident Advisors (RAs) and students over whom the student employee/RA has direct responsibility. While no relationships are prohibited by this policy, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee. The Title IX Coordinator will determine whether to refer violations of this provision to Human Resources for resolution, or to pursue resolution under this Policy, based on the circumstances of the allegation.

9. Force, Coercion, Consent, and Incapacitation⁷

⁷ The Illinois state definition of consent is applicable to criminal prosecutions for sex offenses in Illinois but may differ from the definition used on campus to address policy violations.

Sec. 11-1.70. Defenses with respect to offenses described in Sections 11-1.20 through 11-1.60.

(a) "Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

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

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

(b) It shall be a defense under subsection (b) and subsection (c) of Section 11-1.50 and subsection (d) of Section 11-1.60 of this Code that the accused reasonably believed the person to be 17 years of age or over.

(c) A person who initially consents to sexual penetration or sexual conduct is not deemed to have consented to any sexual penetration or sexual conduct that occurs after he or she withdraws consent during the course of that sexual penetration or sexual conduct.

(Source: P.A. 96-1551, eff. 7-1-11.)

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

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

Consent in relationships must also be considered in context. When parties consent to BDSM⁸ or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so Saint Xavier University’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

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

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

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

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

Sanctions for the above-listed Civil Rights Offenses range from reprimand through expulsion/termination.

10. Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Saint Xavier University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Saint Xavier University and any member of Saint Xavier University’s community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any

⁸ Bondage, discipline/dominance, submission/sadism, and masochism.

individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Filing a complaint within Process B could be considered retaliatory if those charges could be applicable under Process A, when the Process B charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, Recipient vets all complaints carefully to ensure this does not happen, and to assure that complaints are tracked to the appropriate process. The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

11. Independence and Conflict-of-Interest

The Title IX Coordinator [manages the Title IX Team and] acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Office of the President of Saint Xavier University. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or retaliation committed by the Title IX Coordinator should be reported to the President of Saint Xavier University, or designee. Reports of misconduct or retaliation committed by any other Title IX Team member should be reported to the Title IX Coordinator.

12. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to officials with authority including:

Keith O'Neill

Associate Dean of Students and Title IX Coordinator

Office of the Dean of Students

3700 W. 103rd Street

Warde Academic Center, L103

773-298-3123

Email: koneill@sxu.edu

Web: www.sxu.edu, keyword: Title IX

Gerry Horan

Director of Human Resources

Deputy Title IX Coordinator

Office: Human Resources Building

Phone: 773-298-3450
Email: ghoran@sxu.edu

Brian Hotzfield

Associate Vice President for Strategic Enrollment Management & Student Success
Deputy Title IX Coordinator
Office: WAC A-226
Phone: 773-298-3050
Email: hotzfield@sxu.edu

Allison Kern

Director of Athletics
Deputy Title IX Coordinator
Office: Shannon Athletic Center
Phone: 773-298-3101
Email: kern@sxu.edu

Katy Thompson

Dean of Students and Director of Residence Life
Deputy Title IX Coordinator
Office: WAC L-208
Phone: 773-298-3123
Email: thompson@sxu.edu

Saint Xavier University has determined that the following administrators are Reporting Officials with authority to address and correct sexual harassment and/or retaliation. In addition to the Title IX Team members listed above, these Reporting Officials listed below may also accept notice or complaints on behalf of the Recipient. LINK.

Saint Xavier University has also classified all employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing sexual harassment and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Illinois Office for Civil Rights
Chicago Office
U.S. Department of Education

John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Telephone: (312) 730-1560
Facsimile: (312) 730-1576
[Email: OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

For complaints involving employees: [Equal Employment Opportunity Commission](#) (EEOC)

13. Links to Relevant Federal and State Laws

Additional information about the federal laws referenced in this policy—Title IX; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act); the Campus Sexual Violence Elimination Act (Campus SaVE Act); and the Family Educational Rights and Privacy Act (FERPA)—can be found at the following links:

- **Title IX**
 - <http://www.dol.gov/oasam/regs/statutes/titleix.htm>
 - http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html
- **Clery Act**
 - <http://cleryact.info/home.html>
- **FERPA**
 - <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>
- **Campus SaVE Act**
 - <http://www.cleryact.info/campus-save-act.html>
- **Violence Against Women Act**
 - <https://www.justice.gov/ovw>
- **Preventing Sexual Violence in Higher Education Act**
 - <https://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=3672>

14. Reports of Sexual Harassment and/or Retaliation

Notice, complaints or reports of sexual harassment and/or retaliation may be made using any of the following options:

1) Make a report, or give verbal notice, to the Title IX Coordinator or deputies listed above. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.

[2] Report online, using the reporting form posted at www.sxu.edu, keyword Title IX ([here](#)). Anonymous reports are accepted but can give rise to a need to investigate. Saint Xavier University tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as Saint Xavier University respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows Saint Xavier University to discuss and/or provide supportive measures.]

3) Report to any Official with Authority or Mandated Reporter.

4) Report to Public Safety at 773-298-3911.

A Formal Complaint means a document submitted/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that Saint Xavier University investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by Saint Xavier University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the Recipient investigate the allegations.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

15. Supportive Measures

Saint Xavier University will offer and implement non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to Saint Xavier University’s education program or activity, including measures designed to protect the safety of all parties or Saint Xavier University’s educational environment, and/or deter sexual harassment and/or retaliation.

Saint Xavier University will maintain the privacy of the supportive measures, provided that privacy does not impair Saint Xavier University’s ability to provide the supportive measures. Saint Xavier University will act to ensure as minimal an academic/occupational impact on the parties as possible.

Saint Xavier University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact directives) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

16. Emergency Removal

Saint Xavier University can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Behavioral Intervention Team using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

Saint Xavier University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

17. Promptness

All allegations are acted upon promptly by Saint Xavier University once it has received notice or a formal complaint. Complaints can take up to 90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but Saint Xavier University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in Saint Xavier University procedures will be delayed, Saint Xavier University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

18. Privacy

Every effort is made by Saint Xavier University to preserve the privacy of reports.⁹ Saint Xavier University will not share the identity of any individual who has made a report or complaint of sexual harassment, sexual misconduct, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Saint Xavier University reserves the right to determine which Saint Xavier University officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Saint Xavier University may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

While the University will maintain confidentiality specified in this Section, the University will not limit the ability of the parties to discuss the allegations at issue in a particular case. Parties are advised, however, that the manner in which they communicate about, or discuss a particular case, may constitute Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this policy.

Note that certain types of Sexual Harassment are considered crimes for which the University must disclose crime statistics in its Annual Security Report that is provided to the campus community and available to the public. These disclosures will be made without including personally identifying information.

19. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator, provided that the Complainant is a current member of the Saint Xavier University community. However, if the Respondent is no longer subject to Saint Xavier University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

⁹ For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the Recipient's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the Recipient's FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. Saint Xavier University has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see page 26. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, Saint Xavier University will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

20. Mandated Reporting

All Saint Xavier University employees (faculty, staff, administrators) are expected to report actual or suspected harassment to appropriate officials immediately, though there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at Saint Xavier University for a Complainant or third-party (including parents/guardians when appropriate):

a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors
 - Counseling Center: 3911 W. 103rd Street in the Driehaus Center, 773-298-4045
- On-campus health service providers
 - Health Center: 3925 W. 103rd Street in the Driehaus Center , 773-298-3712
- On-campus clergy members acting in their role as clergy
- Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

[Employees who are confidential and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client or patient].

b. Anonymous Report to Mandated Reporters

At the request of a Complainant, a report may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information.

However, an anonymous report typically limits the Saint Xavier University's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements.

c. Mandated Reporters and Formal Notice/Complaints

All employees of Saint Xavier University (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from Saint Xavier University.

Supportive measures may be offered as the result of such disclosures without formal Saint Xavier University action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment of which they become aware is a violation of Saint Xavier University policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the Saint Xavier University is technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

21. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether Saint Xavier University proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires Saint Xavier University to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Saint Xavier University may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and Saint Xavier University's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is Saint Xavier University.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Saint Xavier University, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

22. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Saint Xavier University must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

Saint Xavier University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

23. False Allegations and Evidence

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

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

24. Amnesty for Complainants and Witnesses

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

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

To encourage reporting and participation in the process, Saint Xavier University maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to Public Safety).

Saint Xavier University maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, Saint Xavier University may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

25. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA¹⁰-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with Public Safety regarding the type of incident and its general location for publication in the Annual Security Report and daily campus crime log.

¹⁰ VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

Campus Security Authorities include: student conduct staff, public safety, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

26. Preservation of Evidence

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and particularly time-sensitive. The Recipient will inform the Complainant of the importance of preserving evidence by taking the following actions:

1. Seek forensic medical assistance at the [specify] hospital, ideally within 120 hours of the incident (sooner is better)
2. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container.
6. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.

INITIAL ASSESSMENT AND GREIVANCE PROCEDURES

1. Overview

Saint Xavier University will act on any formal or informal notice/complaint of violation of the policy that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures, known as “Process A.”

The procedures below apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members.

Alleged violations of this policy, other than violations of the prohibitions on Sexual Harassment and Retaliation, will be dismissed under process A, but remain subject to review under “Process B.” Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator. Please see the Student and/or Employee Handbooks for a description of the procedures applicable to the resolution of such offenses.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the employee and student handbooks.

2. Notice or Complaint of Sexual Harassment

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator determines the next steps Saint Xavier University needs to take.

The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
- 2) An informal resolution (upon submission of a formal complaint); and/or
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

Saint Xavier University uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, Saint Xavier University will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment, their potential recurrence, or their effects.

3. Initial Assessment

Following receipt of formal notice or a formal complaint of an alleged violation of this Policy, the Title IX Coordinator¹¹ engages in an initial assessment, typically within one to five business days.

The Title IX Coordinator will begin by determining:

- Whether the conduct, as reported, falls or could fall within the scope of this policy (see “Scope”); and
- Whether the conduct, as reported, constitutes or could constitute Sexual Harassment.

¹¹ If circumstances require, the President or Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

If the Title IX Coordinator determines that the conduct reported could/does not fall within the scope of the policy, and/or could not constitute Sexual Harassment, even if investigated, the Title Coordinator will dismiss the matter and may notify the reporting party if doing so is consistent with the Family Educational Rights and Privacy Act (“FERPA”). The Title IX Coordinator may refer the report to other University offices, as appropriate.

If the Title IX Coordinator determines that the conduct reported could fall within the scope of the policy, and/or could constitute Sexual Harassment, if investigated, the Title IX Coordinator will proceed through additional steps in the initial assessment which can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the parties to offer supportive measures.
- The Title IX Coordinator works with the parties to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and may seek to determine if the Respondent is also willing to engage in informal resolution.

If a report is not dismissed as a result of the Initial Assessment and the Complainant’s identity is known, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures (see “Supportive Measures”); to discuss and consider the Complainant’s wishes with respect to Supportive Measures; to inform the Complainant about the availability of Supportive Measures with or without filing a Formal Complaint; and to explain the process for filing and pursuing a Formal Complaint. The Complainant will also be provided options for filing complaints with the local police and information about resources that are available on campus and in the community.

4. Violence Risk Assessment

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the Threat Assessment Team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;

- Whether to impose transcript notation or communicate with a transfer Saint Xavier University about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Persona-non-grata is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other Care Team members. A VRA authorized by the Title IX Coordinator should occur in collaboration with the Care or threat assessment team.

A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida), nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

More about the Saint Xavier University’s process for VRA can be found below in Appendix D.

5. Formal Complaint

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the University investigate and adjudicate a report of Sexual Harassment. Provided, however, that at the time the Complainant submits a Formal Complaint, the Complainant must be participating in, or attempting to participate in, one or more of the University’s Education Programs or Activities.

A Complainant may file a Formal Complaint with the Title IX Coordinator in person, by regular mail, or by email. No person may submit a Formal Complaint on the Complainant’s behalf.

In any case, including a case where a Complainant elects not to file a Formal Complaint, the Title IX Coordinator may file a Formal Complaint on behalf of the University if doing so is not clearly unreasonable.

If the Complainant or the Title IX Coordinator files a Formal Complaint, then the University will commence an investigation proceed to adjudicate the matter as specified below. In all cases where a Formal Complaint is filed, the Complainant will be treated as a party, irrespective of the party’s level of participation.

In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

6. Dismissal (Mandatory and Discretionary)¹²

Saint Xavier University must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

¹² These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45.

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by Saint Xavier University (including buildings or property controlled by recognized student organizations), and/or Saint Xavier University does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the Saint Xavier University.

Saint Xavier University may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the Saint Xavier University; or
- 3) Specific circumstances prevent the Saint Xavier University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, Saint Xavier University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

Saint Xavier University is fully compliant with Title IX and related laws and regulations, but considers them to be a minimum standard for ensuring a safe and inclusive University environment. Accordingly, SXU reserves the right to utilize the Sexual Harassment and Sexual Misconduct Policy to address any allegation of sexual misconduct, even if the alleged conduct does not meet specific federal definitions for sexual harassment (34 CFR Part 106.30) or if the conduct occurs off-campus. In cases where the Title IX Coordinator determines that Title IX is not applicable, but the University still intends to apply this Policy to resolve the alleged misconduct, the Title IX Coordinator will inform the parties that Title IX is inapplicable but that University policies and procedures will nevertheless be applied.

7. Consolidation of Formal Complaints

The University may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances. Where the investigation and adjudication process involve more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable. A Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Sexual Harassment.

8. Counterclaims

Saint Xavier University is obligated to ensure that the grievance process is not abused for retaliatory purposes. Saint Xavier University permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations should proceed as part of the process.

Counterclaims will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

9. Right to an Advisor

The parties may each have an Advisor¹³ of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.¹⁴

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

Saint Xavier University may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

a. Who Can Serve as an Advisor

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

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

If the parties choose an Advisor from outside the pool of those identified by Saint Xavier University, the Advisor may not have been trained by Saint Xavier University and may not be familiar with Saint Xavier University policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

b. Advisor's Role in Meetings and Interviews

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

¹³ This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally), but some Recipients do permit more than one. If the Recipient allows more than one Advisor for one party, they should do so for all parties.

¹⁴ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

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

c. Advisors in Hearings/Saint Xavier University-Appointed Advisor

Under U.S. Department of Education regulations under Title IX, a form of indirect questioning is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, Saint Xavier University will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, Saint Xavier University will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-maker(s) during the hearing.

d. Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and Saint Xavier University's policies and procedures.

e. Advisor Violations of Saint Xavier University Policy

All Advisors are subject to the same Saint Xavier University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address Saint Xavier University officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker(s) except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

f. Sharing Information with the Advisor

Saint Xavier University expects that the parties may wish to have Saint Xavier University share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

Saint Xavier University also provides a consent form that authorizes Saint Xavier University to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before Saint Xavier University is able to share records with an Advisor.

g. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Saint Xavier University. Saint Xavier University may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the Saint Xavier University's privacy expectations.

h. Expectations of an Advisor

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

Saint Xavier University may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

i. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

j. Assistance in Securing an Advisor

In the event that a party is unable to secure an advisor, Saint Xavier University will provide an advisor. Parties may also refer to the following listing of local attorneys who may offer discounted or pro bono services to secure an advisor.

Respondent:

Illinois State Bar Association (<https://www.isba.org/>)

Illinois Lawyer Finder (<https://www.isba.org/public/illinoislawyerfinder>)

Pro Bono Legal Assistance:

Illinois Attorney General--- Legal Assistance Referrals www.illinoisattorneygeneral.gov/about/probono

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>]

10. Informal Resolution Processes

Informal Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with Saint Xavier University policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below. Saint Xavier University encourages parties to discuss any sharing of information with their Advisors before doing so.

a. Informal Resolution

Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- When the parties agree to resolve the matter through an alternate resolution mechanism as described below [including mediation, restorative practices, etc.] usually before a formal investigation takes place; see discussion in b., below;
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above but usually occurs post-investigation); see discussion in c., below.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution, they should contact the Title IX Coordinator to so indicate.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, Saint Xavier University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by Saint Xavier University.

Saint Xavier University will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

Mediation Process

Mediation is an informal, voluntary dispute resolution process that consists of a facilitated conversation between parties that identifies key issues, helps the parties understand each other's positions, and guides the parties to an agreed upon resolution.

Mediation is designed to encourage each person to be honest and direct with the other and to accept personal responsibility where appropriate. Mediation can be used to negotiate the terms of continued professional, educational or interpersonal interactions by working through the impact versus intent of behaviors, micro aggressions, bias---related incidents, and harassment.

In cases where Mediation is appropriate, the Title IX Coordinator (or designee) will discuss with the complainant and recipient whether or not they are willing to participate in Mediation. The process involves pre-meetings with the parties to discuss the incident and issues, identify the focus of the mediation, and review the process of mediation. An agreement to mediate, that contains the scope and goals of the mediation, is signed by both parties. The parties brainstorm solutions based on the goals of the mediation and come to an agreement that is signed by both parties.

Mediations can occur face-to-face or be conducted in an asynchronous manner in which the mediators convey the information between the parties.

The content of the discussions in mediation are confidential and will only be shared with supervisors, department chairs, deans and the provost to the extent requested by the parties. If the parties are dissatisfied with the degree to which the agreement is being honored, they can contact the Title IX Coordinator or designee for options.

b. Alternate Resolution Mechanism

Alternate Resolution is an informal mechanism, including mediation or restorative practices, etc. by which the parties reach a mutually agreed upon resolution of an allegation is reached. All parties must consent to the use of an Alternate Resolution mechanism.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of allegation;
- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

c. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and Saint Xavier University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of Saint Xavier University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

11. Grievance Process Pool

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees. They are also listed in the Annual Title IX Report published by the Title IX Office.

The list of Pool members and a description of the Pool can be found [here](#).

a. Pool Member Roles

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in Informal Resolution or Alternate Resolution if appropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices)
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker

b. Pool Member Appointment

The Title IX Coordinator, in consultation with the President, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the Saint Xavier University can also designate permanent roles for

individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

c. Pool Member Training

The Pool members receive annual training. This training includes, but is not limited to:

- The scope of Saint Xavier University’s Sexual Harassment and Sexual Misconduct Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the Saint Xavier University with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of sexual harassment and/or retaliation allegations
- Recordkeeping

Specific training is also provided for Appeal Decision-makers, intake personnel, Advisors (who are Saint Xavier University employees), and Chairs. All Pool members are required to attend these trainings annually. The materials used to train all members of the Pool are publicly posted [here](#).

12. Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The Title IX Coordinator will provide prompt written notice of a Formal Complaint (the “NOIA”) to the Respondent after

receiving a Formal Complaint. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that Saint Xavier University presumes the Respondent is not responsible for the reported misconduct until the conclusion of the adjudication and any appeal,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about Saint Xavier University's policy on retaliation,
- Information about the privacy of the process,
- Information on the right of each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor, including appointment of an advisor by the University,
- Information about resources that are available on campus and in the community,
- A statement informing the parties that Saint Xavier University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to Saint Xavier University's VAWA Brochure,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official Saint Xavier University records, or emailed to the parties' Saint Xavier University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

13. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process [including the Title IX Coordinator, Investigator(s), and Decision-maker(s)] may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is

reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the University President.

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

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

14. Investigation

After the written notice of Formal Complaint is transmitted to the parties, an investigator selected by the Title IX Coordinator will undertake an investigation to gather evidence relevant to the alleged misconduct, including inculpatory and exculpatory evidence. The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the University and not with the parties. The investigation will culminate in a written investigation report that will be submitted to the adjudicator during the selected adjudication process. Although the length of each investigation may vary depending on the totality of the circumstances, the University strives to complete each investigation within thirty (30) to forty-five (45) days of the transmittal of the written notice of Formal Complaint.

a) Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed.

b) Delays in the Investigation Process and Interactions with Law Enforcement

Saint Xavier University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

Saint Xavier University will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. Saint Xavier University will promptly resume its investigation and resolution process as soon as feasible. During such a delay, Saint Xavier University will implement supportive measures as deemed appropriate.

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

15. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant

parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- Provide regular status updates to the parties throughout the investigation.
- Meet with the Complainant to finalize their interview/statement, if necessary
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the Saint Xavier University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator(s) shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback

- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report
- Complete the investigation promptly and without unreasonable deviation from the intended timeline

16. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of Saint Xavier University are expected to cooperate with and participate in Saint Xavier University's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

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

17. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of and consent to¹⁵ audio and/or video recording.

18. Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

19. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker(s)—unless all parties and the Decision-maker(s) agree to an expedited timeline.

20. Hearing Board Composition

¹⁵ Consent of the interviewer and interviewee is required in Illinois as a “dual-party recording” state.

Saint Xavier University will designate a three-member panel from the Pool, at the discretion of the Title IX Coordinator. One of the three members of the panel will be appointed as Chair by the Title IX Coordinator. Alternatively, a single Decision-maker who will also act as Chair may be appointed by the Title Coordinator.

The Decision-maker(s) will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Chair or designee.

21. Evidentiary Considerations in the Hearing

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

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

The parties may each submit a written response to the investigation report prior to the hearing for the consideration of the Decision-maker(s).

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

22. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.

- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator no more than two (2) business days following receipt of the notice.
- Information on how the hearing will be recorded and access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s). For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and the Saint Xavier University will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.¹⁶
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether parties can bring mobile phones/devices into the hearing.

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

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

23. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

¹⁶ The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

24. Pre-Hearing Preparation

The Chair or hearing facilitator, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing, unless the evidence was not considered by the investigator due to mistake, inadvertence, surprise, or excusable neglect.

The parties will be given a list of the names of the Decision-maker(s) at least ten (10) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than eight days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker(s) a list of the names of all parties, witnesses, and Advisors at least ten (10) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

25. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and their Advisors to discuss the hearing procedures with the parties; address matters raised in the parties' written responses to the investigation report, as the hearing officer deems appropriate; discuss whether any stipulations may be made to expedite the hearing; discuss the witnesses the parties have requested be served with notices of attendance and/or witnesses the parties plan to bring to the hearing without a notice of attendance; and resolve any other matters that the hearing officer determines, in the hearing officer's discretion, should be resolved before the hearing.

The Chair may invite the parties to submit the questions or topics they (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Chair must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded.

26. Issuance of Notice of Attendance

After the pre-hearing conference, the Decision-maker(s) will transmit notices of attendance to any University employee (including administrator, faculty, or staff) or student whose attendance is requested at the hearing as a witness. The notice will advise the subject of the specified date and time of the hearing and advise the subject to contact the Chair immediately if there is a material and unavoidable conflict.

The subject of an attendance notice should notify any manager, faculty member, coach, or other supervisor, as necessary, if attendance at the hearing will conflict with job duties, classes, or other obligations. All such managers, faculty members, coaches, and other supervisors are required to excuse the subject of the obligation, or provide some other accommodation, so that the subject may attend the hearing as specified in the notice.

The University will not issue a notice of attendance to any witness who is not an employee or a student.

27. Hearing Procedures

After the pre-hearing meeting(s), the Decision-maker(s) will convene and conduct a hearing. The hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors. By default, the hearing will be conducted with the Decision-maker(s), the parties, the advisors, witnesses, and other necessary University personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

In the Chair's discretion, the hearing may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

While the Hearing Procedures and rulings from the Hearing Board will govern the particulars of the hearing, each hearing will include, at a minimum:

- Opportunity for each party to address the hearing officer directly and to respond to questions posed by the hearing officer;
- Opportunity for each party's advisor to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other party and any witnesses, including questions that support or challenge credibility;
- Opportunity for each party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the hearing officer and a reason for the ruling provided;

- Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect;
- Opportunity for each party to make a brief closing argument.

Except as otherwise permitted by the Decision-maker(s), the hearing will be closed to all persons except the parties, their advisors, the investigator, the hearing officer, the Title IX Coordinator, and other necessary University personnel. With the exception of the investigator and the parties, witnesses will be sequestered until such time as their testimony is complete.

During the hearing, the parties and their advisors will have access to the investigation report and evidence that was transmitted to them.

While a party has the right to attend and participate in the hearing with an advisor, a party and/or advisor who materially and repeatedly violates the rules of the hearing in such a way as to be materially disruptive, may be barred from further participation and/or have their participation limited, as the case may be, in the discretion of the Decision-maker(s).

Subject to the minimum requirements specified in this Section, the Decision-maker(s) will have sole discretion to determine the manner and particulars of any given hearing, including with respect to the length of the hearing, the order of the hearing, and questions of admissibility. The Chair will independently and contemporaneously screen questions for relevance in addition to resolving any contemporaneous objections raised by the parties and will explain the rationale for any evidentiary rulings.

The hearing is not a formal judicial proceeding and strict rules of evidence do not apply. The Decision-maker(s) will have discretion to modify the Hearing Procedures, when good cause exists to do so, and provided the minimal requirements specified in this Section are met.

At the hearing, the Decision-makers have the authority to hear and make determinations on all allegations of harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Sexual Misconduct and Harassment.

28. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

29. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker(s) on the basis of bias or conflict of interest. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

The Chair and hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

30. Investigator Presents the Final Investigation Report

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

31. Testimony and Questioning

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors ("cross-examination").

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by all parties and the Chair), the proceeding will pause to allow the Chair to consider it (and state it if it has not been stated aloud), and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors, if the Chair so chooses. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

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

32. Refusal to Submit to Cross-Examination and Inferences

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission. Similarly, statements can be relied upon when questions are posed by the Decision-maker(s), as distinguished from questions posed by Advisors through cross-examination.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with Saint Xavier University's established rules of decorum for the hearing, Saint Xavier University may require the party to use a different Advisor. If a Saint Xavier University-provided Advisor refuses to comply with the rules of decorum, Saint Xavier University may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

33. Recording Hearings

Hearings (but not deliberations) are recorded by Saint Xavier University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker(s), the parties, their Advisors, and appropriate administrators of Saint Xavier University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

34. Deliberation, Decision-making, and Standard of Proof

The Decision-maker(s) will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may attend the deliberation, but is there only to facilitate procedurally, not to address the substance of the allegations. When there is a finding of responsibility on one or more of the allegations, the Decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party/parties. The Decision-maker(s) may – at their discretion – consider the statements, but they are not binding.

The Decision-maker(s) will review the statements and any pertinent conduct history and will determine the appropriate

sanction(s) in consultation with other appropriate administrators, as required.

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the findings of fact, determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within five (5) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

The Title IX Coordinator will distribute a copy of the Decision-Maker(s) report to the parties within ten (10) business days of the conclusion of the hearing.

35. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Notice of Outcome may then be reviewed by University legal counsel. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within five (5) business days of receiving the Decision-maker(s)' deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official Saint Xavier University records, or emailed to the parties' Saint Xavier University-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy/policies reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by Saint Xavier University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent Saint Xavier University is permitted to share such information under state or federal law; any sanctions issued which Saint Xavier University is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to Saint Xavier University's educational or employment program or activity, to the extent Saint Xavier University is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

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

36. Statement of the Rights of the Parties [\(see Appendix B\)](#)

37. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of harassment and/or retaliation
- The need to remedy the effects of the harassment and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker(s)

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

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

a. Student Sanctions

The following are the usual sanctions¹⁷ that may be imposed upon students or organizations singly or in combination:

Sanctions

- **Expulsion from the University** - Expulsion is the most serious University disciplinary action and involves the permanent exclusion of the student from the University. Expulsion involves the following: forfeiture of all rights and degrees not actually conferred at the time of the expulsion; notification of the expulsion provided to the student, the academic deans, and his/her parents or guardian if the student is a dependent; permanent notation of the expulsion on the student's academic and disciplinary records; withdrawal from all courses; and forfeiture of tuition and fees. Any student expelled from the University must refrain from visiting the University premises except when engaged in official business with prior written approval from the Office for the Dean of Students.
- **Suspension from the University** - Suspension from the University involves the temporary removal of the student from the University for a specified period of time. Suspension from the University further involves the following: the action of suspension will be documented on the student's disciplinary record; the student will be withdrawn from all enrolled courses; the student shall forfeit fees; the student must refrain from visiting the University premises except when engaged in official business approved in writing by the Office for Student Affairs. Persons notified of the suspension may include parents, academic deans, Public Safety or other appropriate personnel at the discretion of the Office of the Dean of Students. Reinstatement from Suspension: When a student has concluded the suspension period and completed the conditions accompanying the suspension, the student must submit a letter to the Office of the Dean of Students requesting reinstatement and providing evidence that the terms of the suspension have been met. The student may return to the University only after an affirmative decision has been made by the Office of the Dean of Students.
- **Postponement of Activity Participation and Conferring of Honors and Degrees** - The University reserves the right to delay or postpone the involvement of a student in any University-related activity, or delay or postpone

¹⁷ Recipient policies on transcript notation will apply to these proceedings.

the conferring of any honor or degree, pending the outcome of any of the student conduct procedures or actions.

- **Termination of Housing Contract** - Termination of the housing contract will result in the immediate removal of the student from University housing, forfeiture of fees, and loss of visitation privileges. In addition, this action could affect a student's future housing contract status with Residence Life. A signed contract for future terms could be rescinded, or a refusal to accept any future housing contract for a designated time period could be imposed.
- **Disciplinary Probation** - Disciplinary Probation is a formal notice, affecting the non-academic status of the student, that the student's behavior is unacceptable. Disciplinary Probation requires that during the probation period the student behaves in a manner that does not violate the University's Code of Student Conduct. Disciplinary Probation lasts for a designated period of time, typically not less than one semester. This action could make the student ineligible to hold office in any organization or represent the University in any official capacity. In some cases, co-curricular activities and/or access to campus grounds and facilities may be restricted. Students on disciplinary probation are subject to a loss of priority for housing renewal, and may not be permitted to request housing during the University breaks. It is further understood that any further violation, even of a minor nature, could warrant immediate suspension or expulsion from the University. Notification of disciplinary probation may include parents, academic deans, Public Safety or other appropriate personnel at the discretion of the Office of the Dean of Students or the University Conduct Board.
- **Administrative Move** - The student will be required to move to another room assignment within University housing. Billing may be adjusted at the discretion of the hearing officer(s) or the Office of the Dean of Students.
- **Suspension from University Housing** - The student will be required to vacate University housing for a given time, with the understanding the student may return at a designated day/time. During this time, the student may not enter any University housing. The student must surrender his/her key and key card access for the time of suspension of residency. Financial credit is not granted during the suspension.
- **Limitations on University Activities and Access** - Limitations on University activities and/or access are imposed to restrict or suspend a student's use of University facilities and services, participation in University programs, and access to members of the University community when it has been determined to be in the best interest of the student and/or the University. These limitations are imposed for a specified period of time and may include, but are not limited to: ineligibility for service as an officer or member of any University organization or committee; restricted participation in any co-curricular or intercollegiate activity; ineligibility to receive or maintain any award from the University; prohibition from attendance at social events; restricted access to designated University building(s); and restricted contact or total disassociation from a member or members of the University community.
- **Community Restitution** – Activities or actions designed to return to the community a portion of the goodwill that was taken away by the commission of the violation. Service to the community should be designed to better the social and/or physical environment of the University and its surrounding community.
- **Restitution and Fines** - Restitution is compensation required of students who engage in the theft, misuse, damage or destruction of institutional, group or private property. For some violations, fines may be imposed. The amount, form and method of payment for restitution and fines will be determined by the hearing officer(s).
- **Psychological and/or Alcohol and Drug Assessment** - A required psychological or alcohol/drug assessment conducted by a licensed counselor at the University for the purposes of counseling only. The University reserves the right to request a formal diagnosis from a physician or other external provider, at the student's expense, and the ability to consult with external providers.
- **Administrative Directive** – A statement, written, oral, or as part of a University policy, from an administrator of the University to be complied with by student(s). May require refraining from conduct or completing an act.
- **University Housing Probation** - University Housing Probation is a formal notice that the student's behavior is unacceptable in University housing, and that continued misconduct could result in further disciplinary action.

University Housing Probation is for a specified period of time, typically not less than one semester. During the probationary period, the student must demonstrate willingness and ability to act in accordance with acceptable standards of community living. The student may be required to resign any residence hall office or committee appointment, and/or may be subject to restricted participation in Residence Life programs.

- **Educational Activities** - Educational Activities are required activities intended to involve the student in a positive learning experience related to the student's unacceptable behavior. Educational Activities allow students to reflect upon their inappropriate behavior, to understand why their behavior was inappropriate and to educate other students so they do not find themselves in similar circumstances. This type of disciplinary action may include, but is not limited to, engaging in a campus or community service project, attending or presenting a program related to the implications of the student's conduct, writing a paper, interviewing someone, or engaging in some type of personal assessment, mediation or counseling.
- **University Warning** - A University Warning is an official warning that the student's behavior is inappropriate and violates the Code of Student Conduct of Saint Xavier University. A copy of the letter of warning is placed in the student's file and serves as notification that further misconduct could result in additional disciplinary action.
- **Other consequences as warranted.**

b. Employee Sanctions/Responsive Actions

Responsive actions for an employee who has engaged in sexual harassment and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Delay of tenure track progress*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions, the Saint Xavier University may assign any other sanctions as deemed appropriate.

38. Withdrawal or Resignation While Charges Pending

a. Students: If a student has an allegation pending for violation of the Policy on Sexual Harassment and Sexual Misconduct, Saint Xavier University may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from Saint Xavier University, the resolution process ends, as Saint Xavier University no longer has disciplinary jurisdiction over the withdrawn student.

However, Saint Xavier University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment and/or retaliation. The

student who withdraws or leaves while the process is pending may not return to Saint Xavier University. Such exclusion applies to all campuses of Saint Xavier University. A hold will be placed on their ability to be readmitted. They may also be barred from Saint Xavier University property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to Saint Xavier University unless and until all sanctions have been satisfied.

b. Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as Saint Xavier University no longer has disciplinary jurisdiction over the resigned employee.

However, Saint Xavier University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment.

The employee who resigns with unresolved allegations pending is not eligible for rehire with Saint Xavier University and the records retained by the Title IX Coordinator will reflect that status.

All Saint Xavier University responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

39. Appeals

Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within five business (5) days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will Chair the appeal. No appeal Decision-makers will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

a. Grounds for Appeal

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- (C) Disproportionate or inappropriate sanction; and
- (D) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

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

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party/parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party/parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in five (5) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and the will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions apply the preponderance of the evidence.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which Saint Xavier University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent Saint Xavier University is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' Saint Xavier University-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

b. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

Saint Xavier University may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

c. Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Chair/Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).
- The results of a remand to a Decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to Saint Xavier University or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

40. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the Saint Xavier University to the Respondent to ensure no effective denial of educational access.

Saint Xavier University will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair Saint Xavier University's ability to provide these services.

41. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Chair/Panel).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from Saint Xavier University and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

42. Recordkeeping

Saint Xavier University will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to Saint Xavier University's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. Saint Xavier University will make these training materials publicly available on Saint Xavier University's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to Saint Xavier University's education program or activity; and
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

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

43. Disabilities Accommodations in the Resolution Process

Saint Xavier University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to Saint Xavier University's resolution process. Anyone needing such accommodations or support should contact the Director of the Center for Accessibility Services or Human Resources who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

44. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy/policies addressing sexual harassment, sexual misconduct, and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. Saint Xavier University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14, 2020.

(Reviewed August 6, 2021)

APPENDIX A: POLICY EXAMPLES

Examples of Possible Sexual Harassment

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends graphic, sexually-oriented jokes and pictures around campus via social media to hundreds of other students. Many don't find it funny and ask them to stop, but they do not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- Chris has recently transitioned from male to non-binary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being non-binary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not interested in Chris sexually or romantically. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in them now based on their identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by the university. Chris takes this as encouragement. One night, Chris goes to a gay bar some distance from campus and sees Dr. Mukembo at the bar. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several online posts that out Dr. Mukembo as gay and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the Title IX Office and alleges that Chris is sexually harassing him.

Examples of Stalking

- Students A and B were "friends with benefits". Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go, and pursued student B relentlessly. Student B obtained a campus no contact directive. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if they had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor's car, both on-campus and at home. Asked again to stop, the student stated by email, "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. If I can't have you, no one will."

Examples of Sexual Assault

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being “a prude.” He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to engage in hand to genital contact. Amanda would have never done it but for Bill's incessant advances. He feels that he successfully seduced her and that she wanted to do it all along but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left.
- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.
- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his apartment, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. They remove each other's clothes, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he came to again. When Kevin runs into John the next day, he thanks him for the great night. John remembers nothing and decides to make a report to the Dean.

Examples of Retaliation

- Student-athlete A alleges sexual harassment by a coach; the coach subsequently cuts the student-athlete's playing time without a legitimate justification.
- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes his approval for her to attend a national conference, citing the faculty member's tendency to “ruffle feathers.”
- A student from Organization A participates in a sexual harassment investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

APPENDIX B: STATEMENT OF RIGHTS OF THE PARTIES

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or retaliation made in good faith to Saint Xavier University officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with dignity and respect by Saint Xavier University officials.
- The right to have Saint Xavier University policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by Saint Xavier University officials from reporting sexual harassment and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by Saint Xavier University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by Saint Xavier University authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Saint Xavier University law enforcement and/or other Saint Xavier University officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a Saint Xavier University-implemented no-contact directive [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of sexual harassment, and/or retaliation, if such changes are reasonably available. No formal report,

or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
 - Assistance from Saint Xavier University staff in completing the relocation
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Transportation accommodations
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and a pro-rated refund
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options.
-
- The right to have Saint Xavier University maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair Saint Xavier University's ability to provide the supportive measures.
 - The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
 - The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
 - The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
 - The right not to have irrelevant prior sexual history or character admitted as evidence.
 - The right to know the relevant and directly related evidence obtained and to respond to that evidence.
 - The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
 - The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
 - The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
 - The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
 - The right to regular updates on the status of the investigation and/or resolution.

- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received at least eight hours of relevant annual training.
- The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any Saint Xavier University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the preponderance of the evidence standard to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written report of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by Saint Xavier University is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by Saint Xavier University.
- The right to a fundamentally fair resolution as defined in these procedures.

APPENDIX C: VIOLENCE RISK ASSESSMENT (VRA)

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, and/or other Threat Assessment Team members.

A VRA occurs in collaboration with the threat assessment team and must be understood as an on-going process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., 5150 in California, Section XII in Massachusetts, Baker Act in Florida), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

A VRA can aid in ten critical and/or required determinations:

- Interim suspension of a Respondent who is a threat to health/safety;
- Whether the Title IX Coordinator should pursue Administrative Resolution absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potentially predatory conduct;
- To help assess/identify grooming behaviors;
- Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer Saint Xavier University about a Respondent;
- Assessment of appropriate sanctions/remedies;
- Whether a Clery Act Timely Warning/Trespass order/Persona-non-grata is needed.
-

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

1. an appraisal of **risk factors** that escalate the potential for violence;
2. a determination of **stabilizing influences** that reduce the risk of violence;
3. a contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence; and
4. the application of **intervention and management** approaches to reduce the risk of violence.

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the Threat Assessment Team. The Team will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

The assessor will follow the process for conducting a violence risk assessment as outlined in the team manual and will rely on a consistent, research-based, reliable system that allows the for the operationalization of the risk levels.

Some examples of formalized approaches to the VRA process include: The NaBITA Risk Rubric,¹⁸ The Structured Interview for Violence Risk Assessment (SIVRA-35),¹⁹ The Extremist Risk Intervention Scale (ERIS),²⁰ Looking Glass,²¹ Workplace Assessment of Violence Risk (WAVR-21),²² Historical Clinical Risk Management (HCR-20),²³ and MOSAIC.²⁴

The VRA is conducted independently from the Title IX process, free from outcome pressure, but is informed by it. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The threat team's member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to health and/or safety of an individual or the community.

¹⁸ www.nabita.org/tools

¹⁹ www.nabita.org/resources/assessment-tools/sivra-35/

²⁰ www.nabita.org/resources/assessment-tools/eris/

²¹ www.nabita.org/looking-glass

²² www.wavr21.com

²³ hcr-20.com

²⁴ www.mosaicmethod.com

APPENDIX D: COMPREHENSIVE RESOURCE LIST

Community Resources

Pillars Community Health (confidential advisor)

Trained and sensitive counselors and advocates are available on the phone and in person to help the victim through the process and, at the victim's request, will accompany them to the hospital, police station, or Public Safety office. All contact with Pillars is confidential.

Main Line 708.PILLARS (708.745.5277)

Domestic Violence Hotline 708.485.5254

24-hour Sexual Violence Hotline: 708-482-9600

<https://pillarscommunityhealth.org/services/domestic-and-sexual-violence-services/sexual-assault-services/>

Arab American Family Services

9044 S. Octavia Ave. Bridgeview, IL 60455 708.599.2237

AAFS is a non-profit organization that provides services and resources to sexual assault victims in the Arab/Muslim Community.

Local Law Enforcement Agencies

Chicago Police Department – 22nd District

Address: 1900 W Monterey Ave, Chicago, IL 60643

Phone: (312) 745-0570

Oak Lawn Police Department

Address: 9446 Raymond Ave, Oak Lawn, IL 60453

Phone: (708) 422-8292

Evergreen Park Police Department

9420 S Kedzie

Evergreen Park IL

708-422-2144

Oak Lawn Police Department

9446 Raymond Ave

Oak Lawn IL

708-422-8292

Local Hospitals

Advocate Christ Hospital Address: 4440 95th St, Oak Lawn, IL 60453

Phone: (708) 684-8000

Little Company of Mary Address: 2800 95th St, Evergreen Park, IL 60805

Phone: (708) 422-6200

MetroSouth Medical Center Address: 12935 Gregory St, Blue Island, IL 60406

Phone: (708) 597-2000

Palos Community Hospital Address: 12251 S 80th Ave, Palos Heights, IL 60463

Phone: (708) 923-4000

Other Resources

Employee Assistance Program at Saint Xavier University provided by Metropolitan Family Services
1-800-905-0994; www.advantageengagement.com

Free, confidential 24/7 telephone, online and face-to-face support for Saint Xavier University employees regarding relationships, life changes and challenges, and other issues.

FORGE

www.forge-forward.org; AskFORGE@forge-forward.org; 414-559-2123

FORGE – Improving the lives of transgender and SOFFA individuals since 1994, building strong connections, providing resources, and empowering personal growth for Transgender and gender non-conforming individuals.

LIFEWIRE

www.lifewire.org; 1-800-827-8840 or 425-746-1940 (24/7 crisis lines). LifeWire is on a mission to end domestic violence and create a world where every person lives in a safe environment, free from oppression and with the opportunity to thrive.

Sexual Assault Support and Help for Americans Abroad www.sashaa.org**National Dating Abuse Hotline**

www.loveisrespect.org; 1-866-331-9474; 1-866-331-8453 (TTY)

National Domestic Violence Hotline (NDVH)

<http://www.thehotline.org>; 1-800-799-SAFE (7233); 1-800-787-3224 (TTY)

The National Domestic Violence Hotline can provide advocacy, resources, referral, and legal assistance to victims of relationship violence. The hotline is under no obligation to notify the University when providing services to students. The link to the hotline is: <http://www.thehotline.org/>. NDVH provides support as well to the LGBTQ community at www.thehotline.org/is-this-abuse/lgbt-abuse.

Rape, Abuse & Incest National Network (RAINN) Hotline www.rainn.org; 1-800-656-HOPE (4673)

RAINN offers confidential, anonymous assistance 24 hours a day, 7 days/week. RAINN also offers assistance to men at www.rainn.org/get-information/types-of-sexual-assault/male-sexual-assault.

1 in 6.org at <https://1in6.org> provides support to men who have had unwanted or abusive sexual experiences in childhood.

Crisis Text Line

The Crisis Text Line is a free 24/7 support for those in crisis. Text 741741 from anywhere in the USA to text with a trained Crisis Counselor. <http://www.crisistextline.org/how-it-works>

State of Illinois Domestic & Sexual Violence Hotline 877-863-6338

APPENDIX E: EDUCATION AND PREVENTION PROGRAMS

Saint Xavier University takes its compliance obligations very seriously. Throughout the year therefore, the University is committed to offering a number of educational programs designed to promote awareness of sexual harassment, sexual assault, dating and domestic violence, stalking and retaliation. Prevention programs will include an overview of the University's policies and procedures; relevant definitions, including prohibited conduct; discussion of the impact of alcohol and illegal drug use; effective consent; effective options for bystander intervention; and other information about risk reduction. Provision of the University's primary and ongoing prevention and awareness programs for students and employees is the joint responsibility of the Title IX Coordinator, Student Life Office, Director of Public Safety, and Human Resources. This group will provide a calendar of compliance update programs for each academic year. Please consult the HR web page for additional information. The University's primary prevention programs and ongoing prevention and awareness campaigns cover the following:

- The University's prohibition of all forms of sexual harassment, sexual assault, sexual misconduct, sexual harassment, dating violence, domestic violence and stalking.
- The University's Sexual Harassment and Sexual Misconduct Policy, including a discussion on what it covers, how it works, the definitions of consent and policy violations.
- Bystander intervention strategies which are safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking.
- Risk reduction information, which includes options designed to decrease perpetration and bystander inaction and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

Notifications, training, workshops, and events include, but are not limited to:

STUDENTS

- Annual notification of the Policy and available resources during Orientation
- At new student orientation during the summer and fall prior to the start of the academic year. Additionally, all new first year and transfer undergraduate students complete an online bystander intervention education program, called U Got This!, offered by Catharsis Productions.
- Annual bystander intervention campaigns and workshops provided to incoming students each fall semester hosted by Catharsis Programs such as Sex Signals, The Hook Up, and Beat the Blame Game
- Campus-wide events such as It's On Us Campaign, the Red Flag Campaign, The Clothesline Project, Denim Day, Sexual Assault Awareness Month (April), Domestic Violence Awareness Month (October), One Love, Walk a Mile in Her Shoes, Polished Man, and Take Back the Night

FACULTY & STAFF

- Annual notification of the Policy and available resources.
- Annual training for all Student Life staff and behavioral-intervention team (Care Team) members.
- Annual training for University faculty and staff who serve as investigators, mediators and conduct board members for addressing allegations of violations of the University's Sexual Misconduct policy. This training includes, but is not limited to, dating violence, domestic violence, sexual assault and stalking; how to conduct investigations and hearings; protecting victim safety and promoting accountability.
- Annual training for advisors of registered student organizations
- All SXU faculty and staff complete the online course, "Preventing Workplace Harassment/Ongoing Prevention and Awareness Campaigns"