Siena Heights University Policy on Sexual Harassment, Including Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Retaliation

1. Glossary

- *Advisor:* 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:* An individual who is alleged to be the victim of conduct that could sexual harassment based on a protected class; or retaliation for engaging in a protected activity.

- *Complaint (formal):* A document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity against a Respondent and requesting that Siena Heights University investigate the allegation.

- *Confidential Resource:* An employee who is not a Mandated Reporter of notice of harassment and/or retaliation (irrespective of Clery Act Campus Security Authority status).

- *Day:* A business day when Siena Heights University is in normal operation.

- *Education program or activity:* Locations, events, or circumstances where Siena Heights University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by Siena Heights University.

- *Final Determination:* A conclusion by preponderance of the evidence that the alleged conduct did or did not violate policy.

- *Finding:* A conclusion by preponderance of the evidence that the conduct did or did not occur as alleged (as in a "finding of fact").

- *Formal Grievance Process:* "Process A," a method of formal resolution designated by Siena Heights 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).

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- *Grievance Process Pool:* Any investigators, hearing officers, appeal officers, and advisors who may perform any or all these roles (though not at the same time or with respect to the same case).

- *Title IX Hearing Administrator:* Those who have decision-making and sanctioning authority within Siena Heights University's Formal Grievance process.

- *Investigator:* The person or persons charged by a Siena Heights 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:* An employee of Siena Heights University who is obligated by policy to share knowledge, notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator.

- *Notice:* 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): An employee of Siena Heights University explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of Siena Heights University.

- *Parties:* Include the Complainant(s) and Respondent(s), collectively.

- *Preponderance of Evidence:* More likely than not, or anything above a "fifty-fifty" likelihood of guilt.

- *Process A:* Formal Grievance Process detailed below and defined above.

- *Process B:* Any process designated by Siena Heights University to apply only when Process A does not, as determined by the Title IX Coordinator.

- *Siena Heights University:* A postsecondary education program that is a Siena Heights University of federal funding.

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- *Remedies:* Post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Siena Heights University's educational program.

- *Respondent:* 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:* The result of an informal or Formal Grievance Process.

- *Retaliation:* adverse actions or impacts resulting from or related to a complaint regarding gender discrimination in an education setting.

- *Sanction:* A consequence imposed by Siena Heights University on a Respondent who is found to have violated this policy.

- *Sexual Harassment:* The umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See Section 17.b., for greater detail.

- *Title IX Coordinator:* At least one official designated by Siena Heights University to ensure compliance with Title IX and Siena Heights 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 Advisory Board:* Refers to the Title IX Coordinator, Deputy Title IX Coordinator and Advisory Board members as defined by title.

2. Rationale for Policy

Siena Heights University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment 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,

Siena Heights 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. Siena

Heights University values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

3. Applicable Scope

The core purpose of this policy is the prohibition of sexual harassment and retaliation. When an alleged violation of this policy is reported, the allegations are subject to resolution using Siena Heights University's "Process A" or "Process B," as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of Siena Heights University community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of Siena Heights University community. This community includes, but is not limited to, students,[1] student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers.

The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

4. Title IX Coordinator

Sister Mary Jones, OP serves as the Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating Siena Heights University's

[1] For the purpose of this policy, Siena Heights 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 Siena Heights University.

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.

Name: Sister Mary Jones, OP
Title IX Coordinator
Location/Address: McLaughlin University Center 208 G
517-264-7105
Email: mjones11@sienaheights.edu
Web: www.sienaheights.edu

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5. Independence and Conflict-of-Interest

The Title IX Coordinator manages the Title IX Advisory Board 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 Advisory Board 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 Deputy Title IX Coordinator in the Human Resource Office. Concerns of bias or a potential conflict of interest by any other Title IX Advisory Board member should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to Human Resources. Reports of misconduct committed by any other Title IX Advisory Board member should be reported to the Title IX Coordinator.

6. 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:

Name: Sister Mary Jones, OP
Title IX Coordinator
Location/Address: University Center 208G
517-264-7105
Email: mjones11@sienaheights.edu
Web: www.sienaheights.edu
Report online, using the reporting form posted at https://sienaheights.edu/titleIX

To file a complaint online, please go to: https://sienaheights.edu/titleix

Siena Heights University Title IX Advisory Board consists of the following campus representation:

- Public Safety
- Counseling Center
- Student Government Representative
- Academic Representative
- Human Resources
- Diversity & Inclusion
- Accessibility Office
- Student Conduct Office
- College of Professional Studies
- Athletics
- VP of Student Affairs

Siena Heights University has determined that the following administrators are Officials with Authority to address and correct sexual harassment and/or retaliation. In addition to the Title IX Advisory Board members listed above, these Officials with Authority listed below may also accept notice or complaints on behalf of Siena Heights University.

1. John Fleenor, Director of Public Safety, jfleenor@sienaheights.edu
2. Dr. Fran Johnson, Director of Human Resources, fjohnso1@sienaheights.edu
3. Michael Orlando, VP Student Affairs, morlando@sienaheights.edu
4. Chris Carter, Director of Diversity, and Inclusion, ccarter9@sienaheights.edu

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5. Sandy Morley, Director of Counseling, smorley@sienaheights.edu
6. Cody Marie Mathis, Director of Accessibility, cmathis1@sienaheights.edu
7. Patricia Rousselo, Associate Professor of Psychology, proussel@sienaheights.edu
8. Kim Berrington, Athletics, kberring@sienaheights.edu
9. Mercedes Starr, Student Representative, President of Student Government, mstarr@sienaheights.edu

Siena Heights 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

For complaints involving employees: Equal Employment Opportunity Commission (EEOC) [2]

[2] EEOC has jurisdiction over Title IX employment claims. Detroit Field Office, Patrick V. McNamara Building, 477 Michigan Ave., Room 865, Detroit Mi 48226, United States. Phone: 1-800-669-4000, Fax: 313-226-4610, TTY: 1-800-669-6820, ASL Video Phone 844-234-5122

7. Notice/Complaints of Sexual Harassment and/or Retaliation

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

1) File a complaint with, or give verbal notice to:

Sister Mary Jones, Title IX Coordinator, Director of Director of Mission Education, mjones11@sienaheights.edu

John Fleenor, Title IX Investigator, Director of Public Safety, jfleenor@sienaheights.edu

Michael Orlando, Vice President of Student Affairs, morlando@sienaheights.edu

Christopher Carter, Director of Diversity, and Inclusion, ccarter7@sienaheights.edu

Sandy Morley, Director of Counseling, smorley@sienaheights.edu

Cody Marie Mathis, Director of Accessibility, cmathis1@sienaheights.edu

Patricia Rousselo, Associate Professor of Psychology, proussel@sienaheights.edu

Kim Berrington, Head Women's Volleyball Coach, kberring@sienaheights.edu

Mercedes Starr, Student Body President, mstarr@sienaheights.edu

2) 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. 24-hour access can be made at 517-264-7799.

3) Report online, using the reporting form posted at https://sienaheights.edu/titleIX . Anonymous reports are accepted but can give rise to a need to investigate. Siena Heights 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 Siena Heights 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 Siena Heights University to discuss and/or provide supportive measures.[3]

4) All campus employees are considered Mandated Reporters for purposes of Title IX.

A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that Siena Heights 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 Siena Heights 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 Siena Heights University 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.

8. Supportive Measures

Siena Heights University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation.

Supportive measures are 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 Siena Heights University's education program or activity, including measures designed to protect the safety of all parties or Siena Heights University's educational environment, and/or deter sexual harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, Siena Heights University will inform the Complainant, in writing, that they may file a formal complaint with Siena Heights University either at that time or in the future, if they have not done so already.

[3] Modify this section if you offer an online complaint option, as opposed to merely filing an online report. Not all institutions consider online reports to be formal complaints.

The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

Siena Heights University will maintain the privacy of the supportive measures, provided that privacy does not impair Siena Heights University's ability to provide the supportive measures. Siena Heights University will act to ensure as minimal an academic and occupational impact on the parties as possible.

Siena Heights 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: https://mysiena.sienaheights.edu/ICS/icsfs/2017_Lincoln_LifeKeys_Flyer.pdf?target=3ad9197b-72b7-4eae-a7e8e33f0393d4cd
- Referral to community-based service providers 8
- Visa and immigration assistance
- 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 orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- 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

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

9. Emergency Removal

Siena Heights 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, also known as CARE, 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 within 24 hours, 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.

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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.

Siena Heights 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 University Housing, temporarily reassigning an employee, restricting a student's or employee's access to or use of facilities or events, authorizing an administrative leave, and suspending a student's participation in student employment and co-curricular activities (such as student organizations, service projects, and intercollegiate 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.

10. Promptness

All allegations are acted upon promptly by Siena Heights University once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are

always exceptions and extenuating circumstances that can cause a resolution to take longer, but Siena Heights University will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in Siena Heights University procedures will be delayed, Siena Heights 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.

11. Privacy

Every effort is made by Siena Heights University to preserve the privacy of reports.[4] Siena Heights University will not share the identity of any individual who has made a report or complaint of harassment or retaliation; any Complainant, any individual who has been reported to be the

perpetrator of sexual harassment or retaliation, 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

[4] 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 Siena Heights University employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in Siena Heights University'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 Siena Heights University's Student Records 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. Siena Heights 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 Clery Act. Other information may be shared as required by law.

106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Siena Heights University reserves the right to determine which Siena Heights 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).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: CARE Team, Counseling Center, Public Safety, Dean for Students, Diversity & Inclusion, Residence Life, Human Resources.

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Information will be shared as necessary with Investigators, Hearing Panel members/Decisionmakers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

Siena Heights 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. For applicable staff and faculty, Human Resources will be informed.

Confidentiality and mandated reporting are addressed more specifically below.

12. Jurisdiction of Siena Heights University

This policy applies to the education program and activities of Siena Heights University, to conduct that takes place on the campus or on property owned or controlled by Siena Heights University, at Siena Heights University-sponsored events, or in buildings owned or controlled by Siena Heights University's recognized student organizations. The Respondent must be a member of Siena Heights University's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Siena Heights University's educational program. Siena Heights University may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial Siena Heights University interest.

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

a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;

b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;

c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or

d. Any situation that is detrimental to the educational interests or mission of Siena Heights University.

If the Respondent is unknown or is not a member of Siena Heights University community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of Siena Heights University's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or the University Counseling Center.

In addition, Siena Heights University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from Siena Heights University property and/or events.

All vendors serving Siena Heights University through third-party contracts are subject to the policies and procedures of their employers and to these policies and procedures to which their employer has agreed to be bound by their contracts.

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

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

13. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to Siena Heights University's jurisdiction and/or significant time

has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

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, Siena Heights 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.[4]

14. Online Sexual Harassment and/or Retaliation

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

Although Siena Heights University may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to Siena Heights 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 Siena Heights University community.

[4] There is an argument to be made to apply current policy definitions to past misconduct, but such an approach would have to be consented to by the parties and/or carefully vetted with legal counsel.

Siena Heights University's Code of Student Conduct outlines misconduct for obscene, harassing, or threating communication made in-person, through phone calls, texting, email, social networks or any other medium to communicate.

Off-campus harassing speech by employees, whether online or in person, may be regulated by Siena Heights University only when such speech is made in an employee's official or work-related capacity].

15. Policy on Nondiscrimination

Siena Heights University is an equal opportunity employer and does not discriminate on the basis of race, color, gender, religion, age, sexual orientation, national or ethnic origin, disability, marital status in the institution's programs or activities or any other occupationally irrelevant criteria. The University promotes affirmative action for minorities, women, disabled persons and veterans. Siena Heights University's Title IX Coordinator is Sister Mary Jones, OP. She can be contacted at 517-264-7105 or mjones11@sienaheights.edu, or in person in McLaughlin University Center, Office 208G on the Adrian campus. For 24/7 availability, call 517-264-7799.

16. Definition of Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Michigan regard Sexual Harassment as an unlawful discriminatory practice.

Siena Heights University has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

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 actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

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

1) Quid Pro Quo:

   a. an employee of Siena Heights University,
   b. conditions[5] the provision of an aid, benefit, or service of Siena Heights 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 Siena Heights University's education program or activity.[6]

3) Sexual assault, defined as:

   Sex Offenses, Forcible:
   - Any sexual act[8] directed against another person[7],
   - without the consent of the Complainant,
   - including instances in which the Complainant is incapable of giving consent.[8]

[5] Implicitly or explicitly.

[6] Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than 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. 16

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

[8] This definition set is not taken from SRS/NIBRS verbatim. ATIXA has substituted Complainant for "victim," has removed references to his/her throughout, has defined "private body parts," has removed the confusing and unnecessary term "unlawfully," and has inserted language clarifying that Siena Heights University interprets "against the person's will" to mean "non-consensually." These are liberties ATIXA thinks are 17

[8] Sexual acts include:

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.

a. 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 Michigan law.
   - Statutory Rape:

1) Non-forcible sexual intercourse,
2) with a person who is under the statutory age of consent State of Michigan.

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 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 the State of Michigan or

important to take with respect to the federal definitions, but users should consult legal counsel before adopting them.

    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 the State of Michigan.

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*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.

Siena Heights University Consensual Relationship for Employees Policy: https://mysiena.sienaheights.edu/ICS/Departments_and_Offices/Human_Resources/Employee_Handbook.jnz

Siena Heights University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

c. Force, Coercion, Consent, and Incapacitation[9]

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.

[9] The State of Michigan does not have a legal definition of consent but there are four ways in which a person is unable to give consent with regards to criminal sexual conduct according to the Michigan Penal Code. The

person is underage, age of consent is 16. The person is intoxicated. The person has a developmental disability. The person was given a date rape drug. These definitions may differ from the definition used on campus to address policy violations. See Campus Safety Handbook https://sienaheights.edu/About/Campus-Safety.

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, if the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

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 Siena Heights 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 BDSM[10] 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 Siena Heights 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.

[10] Bondage, discipline/dominance, submission/sadism, and masochism.

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.

17. 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/or Public Safety and will be promptly investigated. Siena Heights University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Siena Heights University and any member of Siena Heights University's community are prohibited from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any 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.

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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, Siena Heights University 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.

18. Mandated Reporting

All Siena Heights University employees (faculty, staff, administrators) are expected to report actual or suspected sexual harassment or retaliation 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 sexual harassment or retaliation. 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 Siena Heights 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:

- Counseling Center
- Student Health Clinic
- 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, or someone with a disability, or when required to disclose by law or court order.

The campus counselor, campus nurse, and the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

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, patient, or parishioner.

b. Anonymous Notice to Mandated Reporters

Anonymous notice will be investigated by Siena Heights University to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits Siena Heights University's ability to investigate, respond, and provide remedies, depending on what information is shared.

c. Mandated Reporters and Formal Notice/Complaints

All employees of Siena Heights 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 Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from Siena Heights University.

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

Failure of a Mandated Reporter, as described above in this section, to report an incident of sexual harassment or retaliation of which they become aware is a violation of Siena Heights 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 Siena Heights 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.

19. 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 Siena Heights 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 Siena Heights 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. Siena Heights 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 Siena Heights 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 the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When Siena Heights University proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that Siena Heights University's ability to remedy and respond to notice may be limited if the Complainant does not want Siena Heights University to proceed with an investigation and/or

grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing Siena Heights University's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow Siena Heights University to honor that request, Siena Heights University will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

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 Siena Heights 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.

20. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Siena Heights 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.

Siena Heights 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.

21. 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 Siena Heights University policy.

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22. Amnesty for Complainants and Witnesses

Siena Heights University community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to Siena Heights 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 Siena Heights University community that Complainants choose to report misconduct to Siena Heights 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, Siena Heights 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: Siena Heights encourages students to be active bystanders at all times for other students in need, such as to assist a student who has experienced a sexual assault. This need for social responsibility to contact Public Safety may come at a time where the assisting student may be violating a University policy themselves, such as underage consumption of alcohol or marijauna use.

Siena Heights University allows the Vice President of Student Affairs or designee to grant amnesty for students who help others in need. Students who initiate sexual misconduct assistance and/or medical treatment on behalf of themselves may also receive amnesty for alcohol and/or drug use violation(s). Students who are granted amnesty will still be required to meet with a staff member in Student Conduct to discuss the situation and be provided educational resources. Although a record of the incident will be kept on file, and used as prior conduct history should a subsequent conduct matter occur, it will not go on the student's educational student conduct record.

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This amnesty policy is only applicable to Siena Heights University Student Code of Conduct and does not preclude law enforcement agencies from enforcing the law.

23. 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) VAWA-based crimes,[11] 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 could be kept private, under certain circumstances, but statistical information must be shared with Public Safety regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, campus 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.

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

INTERIM RESOLUTION PROCESS[12] FOR ALLEGED VIOLATIONS OF THE POLICY ON SEXUAL HARASSMENT (KNOWN AS PROCESS "A")

1. Overview

Siena Heights University will act on any formal or informal notice/complaint of violation of the Policy that is received by the Title IX Coordinator[15] or any other Official with Authority by applying these procedures, known as "Process A."

The procedures below apply to all allegations of sexual harassment or retaliation involving students, staff, administrators, or faculty members. A set of technical dismissal requirements within the Title IX regulations may apply as described below, but when a technical dismissal under the Title IX allegations is required, any remaining allegations will proceed using these same grievance procedures, clarifying which policies above are applicable. Although the effect of the Title IX regulations can be confusing, these grievance procedures apply to all policies above.

OR

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.

If a dismissal occurs under Process A, please see https://sienaheights.edu/Student-Life/Student-Conduct for a description of the procedures applicable to the resolution of such offenses, known as "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.

[12] For Siena Heights University's with Formal Grievance Processes enabling students and/or employees to challenge Siena Heights University action, it is recommended that allegations under this policy be exempted from that process and replaced with the resolution process outlined here. Most existing grievance proceedings are neither equitable (by definition), nor are they sufficiently prompt to satisfy Title IX. [15] Anywhere this procedure indicates "Title IX Coordinator," Siena Heights University may substitute a trained designee.

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 student, faculty, and staff handbooks.

2. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps Siena Heights 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).

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

3. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator[13] engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:

[13] 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 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 Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant 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 Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
        - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
            - an incident, and/or
            - a pattern of alleged misconduct, and/or
            - a culture/climate concern, based on the nature of the complaint.
        - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will "dismiss" that aspect of the complaint, if any), assesses which policies may apply and refers the matter for resolution under Process B. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX and does not limit Siena Heights University's authority to address a complaint with an appropriate process and remedies.

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a. Violence Risk Assessment

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE 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 Siena Heights University about a Respondent.
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass order/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 team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

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A VRA is not an evaluation for an involuntary behavioral health hospitalization, 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 Siena Heights University's process for VRA can be found below in Appendix E.

b. Dismissal (Mandatory and Discretionary)[14]

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

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 Siena Heights University (including buildings or property controlled by recognized student organizations), and/or Siena Heights 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 Siena Heights University.[15]

Siena Heights 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

[14] These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

[15] Such a Complainant is still entitled to supportive measures, but the formal grievance process is not applicable.

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2) The Respondent is no longer enrolled in or employed by Siena Heights University; or

3) Specific circumstances prevent Siena Heights University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, Siena Heights 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.

4. Counterclaims

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

Counterclaims determined to have been reported in good faith will be processed using the 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.

5. Right to an Advisor

The parties may each have an Advisor[16] 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.[17]

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).

Siena Heights 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 Siena Heights 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 Siena Heights University, the Advisor will be trained by Siena Heights University and be familiar with Siena Heights University's resolution process.

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

[16] 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 Siena Heights University's do permit more than one. If Siena Heights University allows more than one Advisor for one party, they should do so for all parties.

[17] "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.

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.

Siena Heights 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, Siena Heights University is not obligated to provide an attorney.

c. Advisors in Hearings/Siena Heights 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, Siena Heights 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, Siena Heights University will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Decision-maker(s) during the hearing.

d. 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.

Siena Heights 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, Siena Heights University is not obligated to provide an attorney.

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e. 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 Siena Heights University's policies and procedures.

f. Advisor Violations of Siena Heights University Policy

All Advisors are subject to the same Siena Heights University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address Siena Heights 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[18] 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.

g. Sharing Information with the Advisor

Siena Heights University expects that the parties may wish to have Siena Heights University share documentation and evidence related to the allegations with their Advisors. Parties may share this

[18] Subject to the state law provisions or Siena Heights University policy above.

information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

Siena Heights University also provides a consent form that authorizes Siena Heights 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 Siena Heights University is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, Siena Heights University will or will not comply with that request at the discretion of the Title IX Coordinator.

h. 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 Siena Heights University. Siena Heights 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 Siena Heights University's privacy expectations.

i. Expectations of an Advisor

Siena Heights University generally expects an Advisor to adjust their schedule to allow them to attend Siena Heights 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.

Siena Heights 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.

j. 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).

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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 37 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.

k. Assistance in Securing an Advisor

Siena Heights University will provide a trained advisor upon request, who may or may not be an attorney.

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/]

6. Resolution Processes

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 Siena Heights 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. Siena Heights 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 postinvestigation); 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 should contact the Title IX Coordinator.

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, Siena Heights 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 Siena Heights University.

Siena Heights 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.

b. Alternate Resolution Mechanism

Alternate Resolution is an informal mechanism, including but not limited to mediation or restorative practices, etc. by which the parties reach a mutually agreed upon resolution of an allegation. 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 above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and Siena Heights 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 Siena Heights 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 sexual harassment or retaliation, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

d. Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and Siena Heights University. Negotiated Resolutions are not appealable.

7. 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 on the Title IX web page for Siena Heights University.

The list of Pool members and a description of the Pool can be found at https://sienaheights.edu/titleIX.

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 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 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 Siena Heights University Title IX Advisory Board, appoints the Pool[19], which acts with independence and impartiality.

c. Pool Member Training

The Pool members receive annual training based on their respective roles. This training includes, but is not limited to:

- The scope of Siena Heights University's Sexual Harassment 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 Siena Heights 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

[19] This does not preclude Siena Heights University from having all members of the Pool go through an application and/or interview/selection process.

- 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 harassment and/or retaliation allegations
- Recordkeeping

Specific training is also provided for Appeal Decision-makers, intake personnel, Advisors (who are Siena Heights 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: https://sienaheights.edu/titleIX

d. Pool Membership

The Pool may include:

- Trained Advisors
- Trained Decision Makers
- Trained Appeal Hearing Officers
- Trained Hearing Officers
- Trained Investigators

8. Formal Grievance Process: 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 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 Siena Heights University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- 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 Siena Heights University's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that Siena Heights 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 Siena Heights 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) 43
  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, emailed to the parties' Siena Heights University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

9. Resolution Timeline

Siena Heights University will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

10. Appointment of Investigators

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

11. 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 Human Resources.

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.

Siena Heights 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.

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12. Investigation Timeline

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Siena Heights University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

13. Delays in the Investigation Process and Interactions with Law Enforcement

Siena Heights 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.

Siena Heights 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. Siena Heights University will promptly resume its investigation and resolution process as soon as feasible. During such a delay, Siena Heights University will implement supportive measures as deemed appropriate.

Siena Heights 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.

14. 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 45 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.

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

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- 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
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations ○ Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- 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
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- 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
- 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

- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- 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

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- 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
- 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
- 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 Siena Heights 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

15. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of Siena Heights University are expected to cooperate with and participate in Siena Heights University's investigation and 47 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.

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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. Siena Heights University will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. **If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.**

16. 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 [20] audio and/or video recording.

17. 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.

18. 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.

[20] Consent of the interviewer and interviewee is required in "dual-party recording" states.

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–unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-maker from the Pool depending on whether the Respondent is an employee or a student

19. Hearing Decision-maker Composition

Siena Heights University will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Title IX Coordinator. The single Decision-maker will also Chair the hearing. With a panel, one of the three members will be appointed as Chair by the Title IX 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.

20. 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.

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Previous disciplinary action of any kind involving the Respondent may be considered in determining

an appropriate sanction upon a determination of responsibility, assuming Siena Heights University uses a progressive discipline system. 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 impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

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.

21. 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 at least two (2) business days prior to the hearing.

- Information on how the hearing will be recorded and on 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 Siena Heights 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.[21]
- 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 cannot 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 Siena Heights 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.

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

22. 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.

23. 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) or have proffered a written statement or answered written questions, 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. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker(s) at least five (5) 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 two 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 five (5) 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.

24. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or 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 be recorded.

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25. Hearing Procedures

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual harassment and/or retaliation, even though those collateral allegations may not specifically fall within the Policy.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent)[22], Advisors to the parties, any called witnesses, the Title IX Coordinator and anyone providing authorized accommodations or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties and will then be excused.

26. 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.

[22] Subject to Siena Heights University's Code of Organizational Conduct.

27. 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/or 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.

28. 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 54 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.

29. 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.

30. 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.

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

31. Recording Hearings

Hearings (but not deliberations) are recorded by Siena Heights 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 Siena Heights 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.

32. 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 be invited to attend the deliberation by the Chair, 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).

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The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). 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 provided by appropriate administrator 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 determination, rational, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any applicable sanction(s).

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) 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.

33. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. 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 Siena Heights University records, or emailed to the parties' Siena Heights 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(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by Siena Heights 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.

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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 Siena Heights University is permitted to share such information under state or federal law; any sanctions issued which Siena Heights University is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to Siena Heights University's educational or employment program or activity, to the extent Siena Heights 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 Siena Heights University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

34. Statement of the Rights of the Parties (see Appendix C)

35. 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 sexual Harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation

- The need to remedy the effects of the sexual 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.

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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 sanctions[23] that may be imposed upon students or organizations singly or in combination[24]:

a. **Statement of Concern:** Although this particular sanction does not require a violation of the student code of conduct, this concern is meant to guide the student's holistic success.
b. **Written Warning:** An official written notification of the assigned student code violation(s) that gives notice this behavior must stop immediately and permanently. Written warnings also include notice that future violations, whether the same or different, will likely result in more serious sanctions.
c. **Discretionary Sanctions:** Service to the University or community, attendance at educational events (with possible fees), written assignments, or other activities deemed appropriate to the violation(s) incurred. The student is required to submit written proof of participation in and/or completion of the discretionary sanction to the Student Conduct Administrator.
d. **Restorative justice and conflict resolution**: A restorative justice conference may be sanctioned when a conduct officer senses a mature willingness of accepting responsibility and accepting that harm has potentially been done to others in a direct and indirect way. Situations where Restorative Justice has proven most helpful with past incidents have been from theft, damage, use/possession of university or another person's property, community disturbances and disruptions, and abusive conduct that threatens or endangers the physical or psychological health, safety, or welfare of others (Adapted from Conflict Resolution and Student Conduct Services, Colorado State University, 2011). Conflict Resolution meetings may also be sanctioned in cases where behavior has caused conflict to roommate living situations, teammates, and other student leaders.
e. **Restitution:** Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

[23] Siena Heights University policies on transcript notation will apply to these proceedings.

[24] Subject to Siena Heights University's Organizational Code of Conduct.

f. **Restrictions/Loss of Privileges:** Denial of specified privileges for a designated period of time. Examples of privileges that can be denied include, but are not limited to: campus registration of an automobile; parking in a specific area or during specific time periods; access to a building or portion of a building; access to a program; on-campus living; holding of an office in a Registered Student Organization; participation in or exclusion from co-curricular activities; deactivation from a group; representation of the University on athletic teams or in other leadership positions; entrance into University housing or other areas on campus; contact with specific person(s); access to a particular group(s); or any other privilege the conduct body deems appropriate to deny.

g. **No Trespass Order:** Siena Heights University Public Safety has the authority to place a no trespass order against Siena Heights University students, guests, or others which will restrict the movement and/or presence of an individual(s) in and/or around University housing or other areas of campus. Any individual(s) violating this sanction are subject to arrest from the local police. In the event that such an order is placed against students or guests, the Student Conduct Administrator or Public Safety will notify individuals in writing as to the parameters of the order and the timeline of its implementation. If an individual is found to be in violation of a no trespass order, the local authorities will be immediately contacted and the individual will be arrested. In addition, the student may face additional on campus disciplinary action, including suspension.

h. **Disciplinary Probation:** Restrictions placed on a student limiting activities while still attending the University. Probation requires that a student's conduct be reviewed and continually evaluated for a designated period of time. If during this period the student is found to be in violation of any institutional policy or rule, additional, more severe educational sanctions shall be applied up to and including suspension.

i. **Deferred Suspension**: Involuntary separation of the student from University housing and/or the University if conditions of continued enrollment are not met. A student can be given a series of tasks to complete (discretionary sanctions such as counseling, keeping a journal, attendance at certain events or classes) in a given time period. If the student is found responsible for Failure to Comply (completing sanctions) during any part of the deferred suspension, the student is automatically suspended and the case does not need to be reviewed by the Conduct Board again. Conditions of continued enrollment may also include adherence to all University policy. Should a student allegedly violate a University policy during any part of their

deferred suspension, they will be processed through the conduct system to determine responsibility. It is at the discretion of the Student Conduct Administrator to process the alleged violation through a conduct appointment or a Conduct Board/Administrative Hearing. Should the student be found in violation of a University policy, the student is automatically suspended.

j. **Suspension:** Involuntary separation of the student from University housing and/or the University for a definite period of time, after which the student is eligible to return. During this time, the student under suspension shall not have access to University housing or the University premises without written permission from the Student Conduct Administrator or Department of Public Safety. They shall forfeit all rights of their student status for the duration of their suspension. The Department of Public Safety will confiscate the student's student ID at the time of issuance of the suspension and related no trespass order. Conditions for readmission and/or continued enrollment after re-admittance may be specified. All conditions for readmission must be satisfied, completed, and certified to the Office of Student Conduct prior to re-admittance. Also, a written a plan for adhering to conditions of continued enrollment after re-admittance from a suspension shall be provided to the Office of Student Conduct for review and approval.

k. **Expulsion:** Permanent separation of the student from the University, when behavior indicates that the student is unfit to continue within the University community. An expelled student shall be excluded from all academic and social functions, shall have no access to University premises and shall forfeit all rights of student status immediately and permanently upon expulsion.

l. **Revocation of Admission and/or Degree –** Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of 61 University standards in obtaining a degree, or for other serious violations committed by a student prior to graduation.

m. **Withholding Degree –** The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Conduct Code, including the completion of all sanctions imposed, if any.

The sanctions as provided in this section, 1a. through 1e., may be imposed upon groups or organizations for any single violation. Additional sanctions that may be imposed on groups include loss of selected rights and privileges for a specified period of time; and deactivation – loss of all privileges, including University recognition, for a specified period.

b. Employee Sanctions/Responsive Actions

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

- *Warning – Verbal or Written*
- *Implementation of Performance Remediation Plan*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*

- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, Siena Heights University may assign any other responsive actions as deemed appropriate.

36. Withdrawal or Resignation While Charges Pending

a. Students:

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 Siena Heights University, the resolution process ends, as Siena Heights University no longer has disciplinary jurisdiction over the withdrawn student.

However, Siena Heights University will continue to address and remedy any systemic issues, or concerns 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 Siena Heights University. Such exclusion applies to all campuses of Siena Heights University. Admissions will be notified that they cannot be readmitted. They may also be barred from Siena Heights 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 Siena Heights 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 Siena Heights University no longer has disciplinary jurisdiction over the resigned employee.

However, Siena Heights University will continue to address and remedy any systemic issues or concerns, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with Siena Heights University or any campus of Siena Heights University, and the records retained by the Title IX Coordinator will reflect that status.

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

37. 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 (5) days of the delivery of the Notice of Outcome.

An appeal decision-maker will chair the appeal. No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

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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; and

(C) 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(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) 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 chair will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence standard.

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 Siena Heights University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent Siena Heights 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' Siena Heights 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.

Siena Heights 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(s) 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). When appeals result in no change to the finding or sanction, that decision is final.
- 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 Siena Heights 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.

38. 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 Siena Heights University to the Respondent to ensure no effective denial of educational access.

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

39. 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 Siena Heights 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.

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40. Recordkeeping

Siena Heights 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 Siena Heights 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. Siena Heights University will make these training materials publicly available on Siena Heights 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 Siena Heights 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.

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

41. Disabilities Accommodations in the Resolution Process

Siena Heights University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to Siena Heights University's resolution process.

Anyone needing such accommodations or support should contact the Director of Accessibility for students and Human Resources for employees, 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.

42. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. Siena Heights 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.

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APPENDIX A: POLICY EXAMPLES

Some examples of possible sexual harassment include:[25]

- 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 an in-class 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 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,

[25] ATIXA recommends incorporation of examples into policy as an educational and preventive tool. Some campuses may prefer to break these out into separate documents or resources.

faculty-student relationships are prohibited by the university. Chris takes this as encouragement. One night, Chris goes to a 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 order. 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 "jerk him off" (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.

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- 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: AN ATIXA FRAMEWORK FOR INFORMAL RESOLUTION (IR) ATIXA has framed a process for IR that includes:

1. A response based on supportive measures; and/or
2. A response based on a Respondent accepting responsibility; and/or
3. A response based on alternative resolution, which could include various approaches and facilitation of dialogue.

Alternative resolution approaches like mediation, restorative practices, transformative justice, etc., are likely to be used more and more often by colleges and universities. ATIXA does not endorse these approaches as better or worse than other formal or informal approaches.

ATIXA believes that if they are to be used in, and are effective for, sex offenses, they need to be designed and executed carefully and thoughtfully and be facilitated by well-trained administrators who take the necessary time to prepare and lay a foundation for success. Although no approach is a cure-all, the framework below can help to lay that foundation, regardless of which approach(es) are used.

Here are the principles to be considered for supporting various approaches to informal resolution:

- IR can be applied in any sex/gender-based interpersonal conflict but may not be appropriate or advisable in cases involving violent incidents (sexual violence, stalking, domestic and dating violence, severe sexual harassment, sexual exploitation, etc.)
- Situations involving dangerous patterns or significant ongoing threat to the community should not be resolved by IR.
- The determination of whether to permit an IR-based resolution is entirely at the discretion of the Title IX Coordinator (TIXC) and in line with the requirements for IR laid out in the Title IX regulations.
- Any party can end IR early-, mid-, or late-process for any reason or no reason.

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- IR can be attempted before and in lieu of formal resolution as a diversion-based resolution (although a formal complaint must be filed if you are within Section 106.30, per OCR).
- Alternative approaches can inform formal resolution, as in a formal resolution model infused with restorative practices.
- IR could be deployed after formal resolution, as an adjunct healing/catharsis opportunity (that could potentially mitigate sanctions or be a form of sanction).
- Alternate Resolution approaches to IR must be facilitated by Siena Heights University or a thirdparty. There may be value in creating clearly agreed-upon ground rules, which the parties must sign in advance and agree to abide by, otherwise the informal resolution process will be deemed to have failed.

- Technology-facilitated IR can be made available, should the parties not be able or willing to meet in person.
- If IR fails, a formal resolution can take place thereafter. No evidence elicited within the "safe space" of the IR facilitation is later admissible in the formal resolution unless all parties consent.
- With cases involving violence, the preferred alternative approach typically involves a minimal number of essential parties and is not a wide restorative circle approach in order to ensure confidentiality.
- Some approaches require a reasonable gesture toward accountability (this could be more than an acknowledgement of harm) and some acceptance, or at least recognition, by the Respondent that catharsis is of value and likely the primary goal of the Complainant. A full admission by the Respondent is not a prerequisite. This willingness needs to be vetted carefully in advance by the TIXC before determining that an incident is amenable/appropriate for resolution by IR.
- IR can result in an accord or agreement between the parties (Complainant, Respondent, Siena Heights University), which is summarized in writing by and enforced by Siena Heights University. This can be a primary goal of the process.
- IR can result in the voluntary imposition of safety measures, remedies, and/or agreed-upon resolutions by the parties, that are enforceable by Siena Heights University. These can be part of the accord/agreement.
- As a secondary goal, IR can result in the voluntary acceptance of "sanctions," meaning that a Respondent could agree to withdraw, self-suspend (by taking a leave of absence), or undertake other restrictions/transfers/online course options that would help to ensure the safety/educational access of the Complainant, in lieu of formal sanctions that would create a formal record for the Respondent. These are enforceable by Siena Heights University as part of

the accord/agreement, as may be terms of mutual release, non-disparagement, and/or nondisclosure.

- Although a non-disclosure agreement (NDA) could result from IR, it would have to be mutually agreed-upon by the parties in an environment of non-coercion verified by the TIXC.
- Institutions must develop clear rules for managing/facilitating the conference/meeting/dialogue of alternative resolution approaches, to ensure they are civil, age-appropriate, culturally-competent, reflective of power imbalances, and maximize the potential for the resolution process to result in catharsis, restoration, remedy, etc., for the harmed party(ies).

APPENDIX C: 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 Siena Heights 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 respect by Siena Heights University officials.

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- The right to have Siena Heights 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 Siena Heights University officials from reporting sexual harassment or retaliation to both on-campus and off-campus authorities.

- The right to be informed by Siena Heights University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by Siena Heights 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 Siena Heights University law enforcement and/or other Siena Heights University officials.

- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.

- The right to a Siena Heights University-implemented 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 Siena Heights University staff in completing the relocation ○ Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)

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- 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 Siena Heights University maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair Siena Heights 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.

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- 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 Siena Heights 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 appropriate standard of evidence, preponderance of the evidence; 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.

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- The right to be promptly informed in a written Notice of Outcome letter 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 Siena Heights 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 Siena Heights University.

- The right to a fundamentally fair resolution as defined in these procedures.

APPENDIX E: 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 CARE team members.

A VRA occurs in collaboration with the CARE, and or 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, 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.

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 CARE team and/or CARE team representative. The CARE 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 CARE team protocols 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,[26] The Structured Interview for Violence Risk Assessment (SIVRA-35),[27] The Extremist Risk Intervention

[26] www.nabita.org/tools

[27] www.nabita.org/resources/assessment-tools/sivra-35/

Scale (ERIS),[28] Looking Glass,[29] Workplace Assessment of Violence Risk (WAVR-21),[30] Historical Clinical Risk Management (HCR-20),[31] and MOSAIC.[32]

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 CARE team 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.

[28] www.nabita.org/resources/assessment-tools/eris/

[29] www.nabita.org/looking-glass

[30] www.wavr21.com

[31] hcr-20.com

[32] www.mosaicmethod.com

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