

The University has determined, following the Cardona decision and its order vacating the 2024 Title IX regulations in their entirety, to revert to application of its 2020 Title IX Policy for all Title IX matters.

The 2024 policy, the impetus and support for which was the 2024 Title IX regulation which have been vacated, is no longer being applied effective the date of the Cardona decision. For any Title IX matter previously determined to be covered by the 2024 policy and regulations, the prior processing of such matter is being reevaluated for compliance with the 2020 Title IX Policy and regulations.

SIENA HEIGHTS UNIVERSITY TITLE IX POLICY 2024

Siena Heights University Title IX Policy_2024

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SIENA HEIGHTS UNIVERSITY TITLE IX POLICY 2024

Name of Policy: Siena Heights University Title IX Policy	Approved by: 
Responsible Agent: Title IX Coordinator	Effective date: August 1, 2024

(A) Policy Statement

The Siena Heights University (the University) is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from sex discrimination, sexual harassment, and/or retaliation. The University is also committed 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 its educational programs or activities. Title IX of the Education Amendments of 1972 ("Title IX") is a federal law that prohibits sex discrimination.

The University has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sex discrimination, sexual harassment, and/or retaliation. The 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.

(B) Purpose of Policy

The University seeks, through this policy, to acknowledge and comply with its duties under federal and state laws and clearly and effectively set forth a comprehensive framework for receiving, processing, investigating, and resolving complaints of sex discrimination, sexual harassment, and/or retaliation related to participation in a process covered by this policy. This policy also provides the University community with necessary information regarding how to file complaints, receive assistance, and receive support.

(C) Scope

The core purpose of this policy is to prohibit sex discrimination, sexual harassment, and/or retaliation. When an alleged violation of this policy is reported, the allegations are subject to resolution under this policy as detailed below. When the Respondent is a member of the University community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University community. The University community includes, but is not limited to, students,¹ student groups/organizations, faculty, administrators, staff, and

¹ 1 For the purpose of this policy, the Siena Heights Student Code of Conduct defines "student" as all persons who have been notified of their acceptance, expressed intent to, and/or have registered for classes, or otherwise entered into any other contractual relationship with the University to take instruction. This includes but is not limited to all

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third parties such as guests, visitors, volunteers, invitees, and campers. The Title IX procedures 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.

(D) Jurisdiction of Title IX Policy

This policy applies to sex discrimination, sexual harassment, and/or retaliation as those terms are defined in 34 CFR part 106. This applies to the educational and employment program of the University, related to conduct that takes place on the campus or on property owned or controlled by the University, at University-sponsored events, or in buildings owned or controlled by the University's recognized student groups/organizations. The Respondent must be a member of the University's community in order for this policy to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprives someone of access to the University's educational or employment program. Regardless of where the conduct occurred, the University will evaluate notices and 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 within the United States.

If the Respondent is unknown or is not a member of the University community, the Title IX Coordinator will assist the Complainant in identifying 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 the University community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or Title IX designees.

All vendors serving the University through third-party contracts are subject to the policies and procedures of their employers or 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 or designee may be able to assist and support a student or employee Complainant who experiences sex discrimination, sexual harassment, and/or retaliation in an externship, study abroad program, or other environment external to the University where

individuals taking classes in person or through distance learning, pursuing undergraduate or graduate degrees, or who reside in University-owned housing or who live off-campus, who are not enrolled for the current term, but have a continuing relationship with the University. Student status ceases when an individual graduates, is not enrolled for two consecutive semesters, or an individual who is suspended, dismissed, or expelled for any reason.

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sexual harassment policies and procedures of the facilitating or host organization may give recourse to the Complainant.

(E) General Title IX Definitions:

Advisor: A person chosen by a party to accompany the party to some or all 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 applicable. Advisor also includes a person appointed by the University to conduct cross-examination for the party at the hearing if the party does not bring one.

Appointing Authority: Means those employees holding titles designated by the Board of Trustees as Appointing Authorities. The board of trustees through resolution has designated the president and individuals holding specific titles as Appointing Authority. Only an Appointing Authority can authorize employment.

Clear and Convincing Evidence: Standard of proof for alleged violation(s) of the Title IX Policy. This standard requires that the truth of the information utilized be highly probable or reasonably certain that the alleged violations sought to be established are true.

Complainant: A student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or a person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in University's education program or activity;

The University notes that an individual is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

In addition to the individuals listed above, the following individuals have a right to make a complaint of sex discrimination other than sex-based harassment,

- Any student or employee the University, or
- Any person other than a student or employee who was participating or attempting to participate in the University's education program or activity at the time of the alleged sex discrimination.

Complaint: An oral or written request to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged discrimination under Title IX or its regulations.

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

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Business Day: Monday through Friday, excluding Saturday, Sunday, recognized University holidays, and approved University breaks.

Educational Program or Activity: Locations, events, or circumstances where the University exercises substantial control² over both the Respondent and the context in which the sex discrimination, sexual harassment, and/or retaliation occurs and includes any building owned or controlled by a student organization that is officially recognized by the University.

Employee: An individual holding either a faculty and/or staff appointment at the University.

Final Determination: A conclusion by the preponderance of evidence standard of proof that the alleged conduct did or did not violate this policy.

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

Formal Complaint: A document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a Title IX policy violation by a Respondent and requesting that the University investigate the allegation(s).

Formal Grievance Process: A method of formal resolution designated by the University to address alleged conduct that falls within this policy, and which complies with requirements of Title IX law and regulations (34 CFR §106.45).

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

Hearing Decision-maker or Panel: Those who have decision-making and sanctioning authority within the University's Formal Grievance process.

- 1) Under the Student Code of Conduct Policy, the Hearing Decision-maker is referred to as a Hearing Authority and the Panel is referred to as a Board.
- 2) University faculty and staff decision makers and sanctioning authorities are Appointing Authorities.

Informal Resolution Process: The Informal Resolution Process is a voluntary, structured interaction between involved parties and a facilitator to resolve the allegations following the filing

² The University must make a fact-specific determination when determining whether it has substantial control over respondent and context in an off-campus setting. The University may, “consider factors applied by the Federal courts to determine the scope of a [school’s] education program or activity—such as “whether the [school] funded, promoted, or sponsored the event or circumstance where the alleged harassment occurred”—but also, “no single factor is determinative” in concluding whether the school has substantial control over the respondent and the context in which the reported harassment occurred. See 85 Fed. Reg. at 30, 197.

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of a formal complaint and prior to a final determination (hearing). The Informal Resolution Process is intended to be flexible while also providing for a full range of possible outcomes.

Investigator: The person(s) charged by the University with gathering facts about an alleged violation of this policy, assessing relevance and credibility, synthesizing the evidence, and compiling the information into an investigation report and file of directly related evidence.³

Mandated Reporter: A University employee who is obligated by this policy to share knowledge, notice, and/or reports/allegations of sex discrimination, sexual harassment and/or retaliation with the Title IX Coordinator. (See Section F, for conduct that constitutes sexual harassment)

Notice: An employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of sexual harassment and/or retaliatory conduct.

Official with Authority (OWA): An employee of the University explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the University.

Party or Parties: The Complainant(s) and Respondent(s), collectively.

Preponderance of the Evidence Standard: Standard of proof for alleged violation(s) of the Title IX Policy. This standard requires that the information utilized shows that it is more likely than not that the alleged violation(s) occurred.

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

Respondent: An individual who has been reported to have engaged in conduct that could constitute sex discrimination, sexual harassment, and/or retaliation under this policy.

Resolution: The result of a Formal Grievance Process or Informal Resolution Process.

Retaliation: Intimidation, threats, coercion, or discrimination against any person by the University, a student, or an employee or other person authorized by the University to provide aid, benefit, or service under the University's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations. See Section (P) of this policy for more detail.

³ The Investigator will objectively evaluate all evidence that is relevant and not otherwise impermissible – including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

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Sanction: A consequence imposed by the University on a Respondent who is found to have violated this policy. For employees, the term sanction as used in this policy means discipline or corrective action.

Sex-based Harassment: A form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. See Section (F) of this policy.

Sex Discrimination: Negative or adverse treatment based on sex, sexual orientation, gender, gender expression, or gender identity, sex stereotypes, sex characteristics, or pregnancy or related conditions, - in a manner that subjects a person to more than de minimis harm, subject to limited exceptions set forth in Title IX. (Note: sex discrimination is also addressed in additional university policies). Title IX recognizes that preventing someone from participating in school (including in sex-separate activities) consistent with their gender identity causes that person more than de minimis harm.⁴

Title IX Coordinator: The official designated by the University to ensure compliance with Title IX and the University's Title IX program. References to the Coordinator throughout this policy may also encompass a designee(s) of the Title IX Coordinator for specific tasks.

Title IX Team: The Title IX Coordinator and any member of the Grievance Process Pool.

University: Siena Heights University which includes Adrian and all other campuses.

(F) Definition of Sexual Harassment

Sexual Harassment is the umbrella category which includes the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence as defined by 34 CFR Part 106.

Under federal and state law, sexual harassment is an unlawful discriminatory practice. The University has adopted the following definition of Sexual Harassment for this policy. Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, gender, gender expression or gender identity, sex stereotypes, sex characteristics, or pregnancy or related conditions, in a manner that subjects a person to more than de minimis harm, subject to limited exceptions set forth in Title IX of those involved. Sexual harassment, as an umbrella category, includes sexual harassment; actual or attempted sexual assault; domestic violence; dating violence; and stalking, and is defined as:

⁴ This general nondiscrimination principle applies except in the limited circumstances specified by statute, such as in the context of sex-separate living facilities and sex separate athletic teams.

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Sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy, or related conditions, sexual orientation, and gender identity, that satisfies one or more of the following:

(1) Quid Pro Quo:

- (a) A University employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity,
- (b) Conditioning⁵ the provision of an aid, benefit, or service.
- (c) On an individual's participation in unwelcome sexual conduct.

(2) Sexual Harassment:

- (a) Unwelcome sex-based conduct⁶
- (b) Based on the totality of the circumstances⁷
 - (i) To be so severe, or pervasive
 - (ii) Subjectively and
 - (iii) Objectively offensive,
- (c) That it limits or denies a person's ability to participate in or benefit from the University's education program or activity.

(3) Sexual assault⁸, defined as:

- (a) Sex Offenses, Forcible:
 - (i) Any sexual act directed against another person⁹
 - (ii) Without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent.
- (b) Sex Offenses, Non-forcible:
 - (i) Incest:
 - (a) Non-forcible sexual intercourse,
 - (b) Between persons who are related to each other,
 - (c) Within the degrees wherein marriage is prohibited by Michigan law.
 - (ii) Statutory Rape:

⁵ Implicitly or explicitly

⁶ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent).

⁷ Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in 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

⁸ The University’s definition of “Sexual Assault” that is contained in this Policy is mandated by federal regulations

implementing Title IX of the Education Amendments of 1972. Those regulations require the University to adopt a definition of “Sexual Assault” that incorporates various forcible and non-forcible sex crimes as defined by the FBI’s Uniform Crime Reporting System. See 34 C.F.R. § 106.30(a); see Siena Heights Annual Security and Fire Safety Report.

⁹ This would include having another person touch another sexually, forcibly, and without consent.

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- (a) Non-forcible sexual intercourse,
- (b) With a person who is under the statutory age of consent of 16 in the 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, and
- (b) On the basis of sex, and
- (c) Committed by a current or former spouse or intimate partner of the Complainant, or
- (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 Ohio, or
- (g) By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the State of Michigan.

*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 would cause a reasonable person to:
 - (i) fear for the person's safety, or
 - (ii) fear for safety of others; or
 - (iii) suffer substantial emotional distress.

For the purposes of this definition—

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- (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.

(7) Hostile environment harassment, defined as:

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

- (i) The degree to which the conduct affected the complainant's ability to access the University's education program or activity.
- (ii) The type, frequency, and duration of the conduct.
- (iii) The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct.
- (iv) The location of the conduct and the context in which the conduct occurred.
- (v) Other sex-based harassment in the University's education program or activity.

(G) Definition of Force, Coercion, Consent, and Incapacitation

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, they want to stop, or they do not want to go past a certain point of sexual interaction: continued pressure beyond that point can be coercive.

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Consent is:

- knowing, and
- voluntary, and
- with 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.

Consent requires unambiguous communication and mutual agreement concerning the act in which the participants are engaging throughout the entirety of the interaction.

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

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

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 the 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 similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

A person cannot consent if they are unable to understand the fact, nature, or extent of the sexual situation or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol, drugs, or medication. A Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

A person cannot give consent if force, expressed or implied is used; or if, duress; intimidation; threats; or if, deception is used on the Complainant. Silence or the absence of resistance does not imply consent.

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Consent in relationships must also be considered in context. When parties consent to BDSM¹⁰ 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 the 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.

Minors under the age of 16 are incapable of giving consent under Ohio law under any circumstance.

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 may also include 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.

In considering whether a Complainant is incapacitated due to the consumption of drugs or alcohol, the University will consider the circumstances, including factors such as whether there is evidence of slurred speech, vomiting, stumbling or the inability to walk, or periods of "blacking out." The presence of one of these factors, standing alone, may not be sufficient to establish incapacitation, the totality of the circumstances must be examined.

(H) Title IX Coordinator

The Director, Title IX and Compliance serves as the Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sex discrimination, sexual harassment, and retaliation prohibited under this policy.

(1) Independence and Conflict-of-Interest

¹⁰ BDSM is a commonly known acronym for bondage, discipline/dominance, submission/sadism, and masochism.

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

The members of the Title IX Team are trained to avoid bias for or against any gender, gender identity, gender expression, sex characteristics, or sexual orientation, or other protected characteristic, 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 Siena Heights University Vice President of People and Culture. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the Vice President of Risk Management and Chief Risk Officer or designee. Reports of misconduct committed by any other Title IX Team member should be reported to the Title IX Coordinator.

(2) Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy may be made internally to:

Sister Mary Jones, OP
Title IX Coordinator
Mjones11@sienaheights.edu
517.264.7105
<https://www.sienaheights.edu/title-ix/>

(a) The University has identified that specified administrators are Officials with Authority to address and correct sex discrimination, sexual harassment, and/or retaliation. In addition to the Title IX Team members these Officials with Authority may also accept notice or complaints on behalf of the University.

(b) 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.

(c) The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

Inquiries may be made externally to:

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U.S. Department of Education
Office for Civil Rights, Michigan/Ohio Cleveland Office
1350 Euclid Ave, Suite 325
Cleveland, OH 44115
216.522.4970
Web: <http://www.cleveland@ed.gov/ocr>

United States Equal Employment Opportunity Commission
Patrick V. McNamara Building
477 Michigan Avenue
Room 865
Detroit, MI 48226
Phone: (800) 669-4000
Fax: (313) 226-4610
TTY: (800) 669-6820
ASL Video Phone: (844)234-5122

U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 509F, HHH Building
Washington, D.C. 20201
Phone: (800) 868-1019, (800) 537-7697 (TDD)
Complaint forms are available
at <http://www.hhs.gov/ocr/office/file/index.html>

(I) Notice/Complaints of Sex Discrimination, Sexual Harassment, and/or Retaliation

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

- (1) File a complaint with, or give verbal notice to, the Title IX Coordinator. 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 with Authority.
- (2) Report online, using the reporting form posted at <https://sienaheights.edu/TitleIX/>. Anonymous reports are accepted but can give rise to difficulty investigating. The University tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Reporting carries no obligation to initiate a formal response as the University respects Complainant requests to dismiss complaints unless there is a compelling threat to the health and/or safety of the University community. The Complainant is largely in control due to this process being Complainant-driven.

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A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a violation of this policy by a Respondent and requesting that the 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 the University that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the University investigate the allegation(s).

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 be filed correctly to allow the University to treat it as a Formal Complaint. Even if the Complainant declines, the University's Title IX Coordinator may sign the Formal Complaint and commence the investigative process.

If a student, a parent of a minor student, or other authorized legal representative informs an employee of a student's pregnancy or related conditions, the University employee then must provide the individual with information about the University's obligations to prevent discrimination and ensure equal access. The University is prohibited from disclosing personally identifiable information obtained through complying with Title IX, including information about reasonable modifications for pregnancy or related conditions, with limited exceptions.

(J) Formal Grievance Process

The University has adopted the Formal Grievance Process that provides for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

When a party is both a student and an employee of the University, the university will make a fact-specific inquiry to determine whether the requirements of § 106.46 apply by considering whether the party's primary relationship with the University is to receive an education and whether the alleged sex-based harassment occurred while the party was performing employment-related work.

The University will treat complainants and respondents equitably. The University requires that its Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. As long as there is no conflict of interest or bias, a decisionmaker may be the same person as the Title IX Coordinator or investigator.

The University presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

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The University has established the following timeframes for the major stages of the grievance procedures:

- The University shall provide written notice of the allegations to Respondent within 48 hours of receiving the allegations.
- The University will evaluate the Complaint and issue a decision whether to dismiss or investigate within two weeks of receiving the allegations.
- The University will promptly investigate the complete and issue a determination in a reasonable time if the University makes the decision to investigate.

The University allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice of any extension to the parties that includes the reason for the delay.

The University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The University will objectively evaluate all evidence that is relevant and not otherwise impermissible – including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the University to determine whether one or the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged-sex-based harassment or preclude determination that sex-based harassment occurred.

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Written Notice of Allegations

Upon initiation of the University's Title IX grievance procedures, the University will notify the parties of the following:

- The University's Formal Grievance Process and Informal Resolution Process
- Sufficient information available at the time to allow the parties to respond to the allegations including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s)¹¹
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to trained, impartial decisionmaker.
- The parties may have an advisor of their choice who may be but is not required to be an attorney.
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence¹²¹³.

Article IV of the University's Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information to any University official, faculty member or office.

If, in the course of an investigation, the University decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

Dismissal of a Complaint

The University may dismiss a complaint of sex discrimination if:

- The University is unable to identify the respondent after taking reasonable steps to do so
- The respondent is not participating in the university's education program or activity and is not employed by the University.
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Investigator determines that

¹¹ If in the course of an investigation, the University decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the University will notify the parties of the additional allegations.

¹² If the University provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

¹³ If the University provides access to an investigative report: the parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party.

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without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven or

- The University determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the University will make reasonable efforts to clarify the allegations with the complainant.

Upon Dismissal, the University will promptly notify:

- the complainant of the basis for the dismissal
- the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if the notification is in writing, if the dismissal occurs after the respondent has been notified of the allegations.
- the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the University will also notify the respondent that the dismissal may be appealed.

Complaint Dismissal Appeals Process

Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the University will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent.
- Implement appeal procedures equally for the parties
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations
- Provide the parties a reasonable and equal opportunity to make a statement in support of or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When the Complaint is dismissed, the University will at a minimum

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and

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- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the University's education program or activity.

Investigation

The University will provide for adequate, reliable, and impartial investigation of complaints. The burden is on the University – not the parties- to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The University will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

The University will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- The University will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding
- The University may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

The University will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

The University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The University will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The University will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- The University will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence.
- The University will provide a reasonable opportunity to review and respond to the evidence of the investigative report. If the Investigator decides a live hearing is necessary, it will provide this opportunity to review the evidence in advance of the live hearing; and

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- The University will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

Questioning the Parties and Witnesses

The University will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

When the Investigator chooses not to conduct a live hearing: the University's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the Investigator to ask such questions during individual meetings with a party or witness
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the Investigator during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

When the Investigator chooses to conduct a live hearing: The University's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the decisionmaker to ask such questions, and either:

- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker, subject to the procedures for evaluating and limiting questions discussed below; or
- Allow each party's advisor to ask any party or witness such questions, subject to the procedures for evaluating and limiting questions discussed below. Such questioning will never be conducted by a party personally.¹⁴

Procedures for the decisionmaker to evaluate the questions and limitations on questions: The decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity

¹⁴ If the University permits advisor-conducted questioning and a party does not have an advisor to ask questions on their behalf, the University will provide the party with an advisor of the University's choice, without charge to the party, for the purpose of advisor-conducted questioning. In those instances, the University will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.

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to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Refusal to respond to questions and inferences based on refusal to respond to questions: The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

Procedures for a Live Hearing, if offered:

The University will conduct the live hearing with the parties physically present in the same geographic location or, at the University's discretion or upon the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking. The University will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.

Determination Whether Sex-Based Harassment Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the University will:

- Use the preponderance of the evidence¹⁵ of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
 - A description of the alleged sex-based harassment
 - Information about the policies and procedures that the University used to evaluate the allegations
 - The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred
 - When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions the University will impose on the respondent whether remedies other than the imposition of disciplinary sanctions will be provided by the University to the complainant, and to the extent appropriate, other students identified by the University to be experiencing the effects of the sex-based harassment; and
 - The University's procedures and permissible bases for the complainant and respondent to appeal.

¹⁵ The University may use a clear and convincing standard of proof, if applicable.

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- The University will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:
 - Coordinate the provision and implementation of remedies to a complainant and other people The University identifies as having had equal access to the University's education program or activity limited or denied by sex discrimination.
 - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.
- Comply with the Formal Grievance Process before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the Formal Grievance Process for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.¹⁶

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

Appeals:

The University will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, the University will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;

¹⁶ The University may address false statements by initiating a disciplinary process under the Code of Conduct if there is evidence independent of the determination whether sex discrimination occurred.

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- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that the University will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing the result of the appeal and the rationale for the result.
- Any additional procedures or bases for appeal the University offers will be equally available to all parties.

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, the University may impose disciplinary sanctions, which may include disciplinary action up to termination.

K. Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sex discrimination, 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 the University's education program or activity, including measures designed to protect the safety of all parties or the University's educational environment, and/or deter sex discrimination, sexual harassment, and/or retaliation during the University's Formal Grievance Process or Informal Resolution Process.

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

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

The University will seek to impose minimal academic and/or employment impact on the parties and will seek to implement measures in a way that does not unreasonably burden the other party.

(1) These actions may include, but are not limited to:

- (a) Referral to counseling, medical, and/or other healthcare services
- (b) Referral to the Employee Assistance Program
- (c) Referral to community-based service providers
- (d) Student financial aid counseling
- (e) Education to the institutional community or community subgroup(s)
- (f) Altering campus housing assignment(s)
- (g) Altering work arrangements for University employees
- (h) Safety planning
- (i) Providing campus safety escorts

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- (j) Implementing contact limitations (No Contact Directive) between the parties
- (k) Academic support, extensions of deadlines, or other course/program-related adjustments
- (l) Persona Non Grata (PNG) order, or Be-On-the-Lookout (BOLO) Notice
- (m) Class schedule modifications, withdrawals, or leaves of absence
- (n) Increased security and monitoring of certain areas of the campus
- (o) Any other actions deemed appropriate by the Title IX Coordinator

Violations of No Contact Directives will be referred to appropriate student or employee conduct processes for enforcement.

(L) Informal Resolution Process

In lieu of resolving a complaint through the University's Formal Grievance Process, the parties may instead elect to participate in the University's Informal Resolution Process. The University will inform the parties in writing of its Informal Resolution Process. The University will not offer its Informal Resolution Process to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, the University will explain in writing to the parties:

- The allegations;
- The requirements of the Informal Resolution Process;
 - That any party has the right to withdraw from the Informal Resolution Process and initiate or resume grievance procedures at any time before agreeing to a resolution
 - That if the parties agree to a resolution at the end of the Informal Resolution Process they cannot initiate or resume grievance procedures arising from the same allegations;
 - The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
 - What information the University will maintain and whether and how the University could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

In making a determination as to whether the Informal Resolution Process is appropriate, the Title IX Coordinator will consider factors, including, but not limited to, the following:

- (i) the outcome of an individualized safety and risk analysis of the Respondent relating to sexual misconduct, physical violence, failure to comply with a mutual No Contact Directive (NCD), a Civil No Contact Order (CNCO) or any protection order put in place by a court of law, and/or other relevant conduct,
- (ii) the nature of the alleged conduct, whether allegations involve multiple victims and/or a pattern of conduct, or other evidence-informed factors indicative of increased risk to campus safety, and

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(iii) whether the circumstances warrant the Title IX Coordinator filing a Formal Complaint.

A Complainant or Respondent may request the Informal Resolution Process by informing the Title IX Coordinator for the University (or designee) in writing using the contact information for the Title IX Coordinator provided in this Policy. The Informal Resolution Process is described in full in this section.

(M) Emergency Removal

(1) Students

The University can impose an interim suspension on a student who is involved in the Title IX process 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.

(a) Interim Suspension for students is the immediate removal of the student from all University premises.

(b) The Vice President for Student Affairs on consultation with the Title IX Coordinator and the Department of Public Safety may impose an Interim Suspension.

(c) A student may be placed on Interim Suspension to – ensure the safety and well-being of the university community, ensure the student's own physical or emotional safety and well-being, or to ensure the student does not pose an ongoing threat, disruption, or interference with normal university activity.

(d) The Interim Suspension may be effective immediately without prior notice and may provide for partial or complete exclusion from university premises.

(e) The student will be notified of the Interim Suspension in writing via their University assigned email address, and the reasons for the Interim Suspension.

(f) The student will be given a date and time to meet with the Vice President for Student Affairs to show cause on why their continued presence on-campus does not constitute a threat.

(g) After the meeting, the Vice President for Student Affairs may lift the Interim Suspension and will communicate the decision and rationale in writing to the student via their University assigned email address. This decision is final, and no further appeal is available.

(h) If the Vice President for Student Affairs chooses to leave the Interim Suspension in place, the student will remain on Interim Suspension until the alleged behavior is investigated and/or adjudicated. The Interim Suspension Process does not replace the Title IX and/or the Student Conduct Process.

(2) Student Groups/Organizations

(a) Interim Suspension for a student group/organization is the immediate cessation of all activities until further notice. A student group/organization that is placed on

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Interim Suspension cannot hold meetings and events on-campus and cannot function as a student group/organization until further notice.

(b) The Vice President for Student Affairs may impose an Interim Suspension.

(c) A student group/student organization may be placed on Interim Suspension if the student group/organizations continued operation poses a danger to the University or any of its members, or constitutes an ongoing threat, disruption, or interference with normal university activity.

(d) The Interim Suspension may be effective immediately without prior notice and will remain in place until an investigation into the alleged Title IX violation(s) is completed, and a decision regarding appropriate next steps is determined.

(e) The student group/organization (or like position) will be notified of the Interim Suspension in writing via their University assigned email address, and the reasons for the Interim Suspension.

(f) The student group/organization president (or like position) will be given a date and time to meet with the Vice President for Student Affairs to show cause why their student group/organizations' behavior did not and does not continue to constitute a threat to the University community.

(g) After the meeting, the Vice President for Student may retain or lift the Interim Suspension and will communicate the decision and rationale in writing via their University assigned email address to the student group/organization president (or like position). This decision is final, and no further appeal is available.

(h) If the Vice President for Student Affairs chooses to leave the Interim Suspension in place, the student group/organization will remain on Interim Suspension until the alleged behavior is investigated and/or adjudicated.

(i) The Interim Suspension Process does not replace the University Student Conduct Process.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Vice President for Student Affairs and Vice Provost or designee for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal/interim suspension prior to the meeting.

The University will seek to implement the least restrictive emergency actions possible considering the circumstances and safety concerns. As determined by the Vice President of Student Affairs on consultation with the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, restricting a student's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

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

(3) Employees

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

The University may use the pertinent administrative leave process with respect to an employee who is the subject of a Title IX complaint. The notice of administrative leave will be implemented by an Appointing Authority in accordance with University policy.

The 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. Please refer to the Title IX procedures for a list of potential sanctions.

(N) Promptness

All allegations are acted upon promptly by the University once it has received notice or a formal complaint. Formal complaints will be handled in a timely manner. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will seek to avoid undue delays.

(O) 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 this policy's scope and/or significant time has passed, the ability to investigate, respond, and provide remedies under this policy may be more limited or impossible.

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

Any complaint received on or after August 1, 2024, will be reviewed and handled in accordance with this policy and procedures. Any complaint received before August 1, 2024, will be reviewed and handled in accordance with the 2020 policy and the procedures.

(P) Online Sex Discrimination, Sexual Harassment, and/or Retaliation

This policy is intended to include online manifestations of any of the behaviors prohibited, when those behaviors occur in or have an effect on the University's education or employment program and activities or use the University's technology or equipment.

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

Any online posting or other electronic communication by students or employees including cyberstalking (based on sex), cyber-harassment (based on sex), or occurring outside of the University's

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control (e.g., not on University networks or websites) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Reasonable supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

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

(Q) Retaliation

Retaliation is disciplinary or adverse action taken against an individual, including peer retaliation because she or he has made a protected disclosure or has participated in an investigation, proceeding, or hearing involving a protected disclosure.

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process described in this policy, supporting a Complainant or Respondent in a proceeding under this policy, assisting in providing information relevant to an investigation under this policy or conducted by the federal government with respect to Title IX, filing or participating in a lawsuit alleging Title IX violations, and/or acting in good faith to oppose conduct that constitutes a violation of this policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The University will take available steps to avoid subjecting students or employees who have engaged in protected activity to retaliation.

The University and any member of the 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 Title IX or this 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 or before a federal administrative agency investigating Title IX or in a lawsuit alleging Title IX violations.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with an alleged policy violation for making a materially false statement in bad faith during a grievance proceeding under this policy does not constitute retaliation. In such a matter, determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith. There may be other University policies and procedures which may be applicable.

(R) Mandated Reporting

Generally, all University employees are Mandated Reporters and expected to report actual or suspected sex discrimination, sexual harassment, and/or retaliation to the Title IX Coordinator and/or Official with Authority 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 the University for a Complainant or third-party (including parents/guardians when appropriate):

(1) Confidential Resources

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

- (i) On-campus licensed professional counselors
- (ii) On-campus health service providers
- (iii) On campus Victim Advocates
- (iv) Off-campus (non-employees)

The first three bulleted above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in situations where their professional licensure requires disclosure, or when required to disclose by law or court order. The University cannot make representations about what off campus resources' confidentiality practices are.

Campus counselors and/or the Employee Assistance Program may be available depending on an individual's status as a student or employee and may be consulted during normal business hours.

(2) Anonymous Notice

Anonymous notice will be investigated by the 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 the University's ability to investigate, respond, and provide remedies, depending on what information is shared.

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(3) Mandated Reporters and Formal Notice/Complaints

All employees of the 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, events such as "Take Back the Night" marches What Were You Wearing exhibits 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 the University.

Supportive measures may be offered as the result of such disclosures without a Formal Complaint to the University.

Failure of a Mandated Reporter to report an alleged incident of sex discrimination, sexual harassment, and/or retaliation of which they become aware is a violation of this policy and may be the subject of disciplinary action. It may also constitute a violation of law.

A Mandated Reporter who experiences sex discrimination, sexual harassment, and/or retaliation under this policy is not required to report their own experience.

(S) When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared or does not wish for a formal investigation under this policy to take place, they may make such a request in writing to the Title IX Coordinator, who will evaluate that request in light of the University's duty to the campus community and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether to proceed under this policy 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 risk assessment.

The Title IX Coordinator's decision is to be based on results of the risk assessment that leads the Title IX Coordinator to reach a conclusion that there is a compelling risk to health and/or safety that requires the University to pursue formal action to protect the University community.

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A compelling risk to health and/or safety may result from evidence of patterns of sex discrimination, sexual harassment, retaliation, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The University may be compelled to act 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 the University's ability to pursue a formal grievance process under this policy fairly and effectively.

When the Title IX Coordinator executes the Formal 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 the 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 except that in no situation may an Advisor provide evidence or answer questions in the place of the Complainant.

The University's ability to remedy and respond to notice may be limited if the Complainant does not want 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 the University's obligation to the University community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University to honor that request, the University will offer supportive measures and remedies to the Complainant and the community but will not otherwise pursue formal action under this policy. However, the University may pursue action under other applicable policies.

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 if the University has not taken action on the matter.

Upon making a Formal Complaint, a Complainant can expect to have allegations taken seriously by the University, and to have the incidents investigated and resolved. Delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

(T) Federal Timely Warning Obligations

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

The University is obligated to provide enough information for community members to make safety decisions considering the potential danger.

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(U) 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 allegation(s) 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 the applicable University policy(ices).

(V) Amnesty

The Student Conduct Amnesty Policy may apply in certain circumstances. Please review the University's policy website for additional information.

(W) 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):

- (1) All "primary crimes," which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson.
- (2) 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.
- (3) VAWA-based crimes,¹⁷⁹ which include sexual assault, domestic violence, dating violence, and stalking; and
- (4) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with the Clery Act Compliance Officer and the University Police 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 and Fire Safety Report as well as the campus daily crime log.

Campus Security Authorities include but are not limited to student affairs/student conduct staff, Department of Public Safety, 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.

(X) Recordkeeping

¹⁷ VAWA is a commonly known acronym for the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

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The University will maintain the following records related to matters that fall within the scope of this policy for a period of seven years:

- (a) Each sex discrimination, sexual harassment, and/or retaliation investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation.
- (b) Any disciplinary sanctions imposed on the Respondent.
- (c) Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity.
- (d) Any appeal and the result there of.
- (e) All materials used to train Title IX Coordinators, Investigators, Decision-makers, The University will make these training materials publicly available on the University's Title IX website.
- (f) Any actions, including any supportive measures, taken in response to a report or formal complaint of sex discrimination and/or sexual harassment, including:
 - (i.) The basis for all conclusions that the response was not deliberately indifferent.
 - (ii.) Any measures designed to restore or preserve equal access to the University's education program or activity; and
 - (iii.) If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable considering the known circumstances.

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

(Y) Confidentiality and Privacy

The University tries to preserve the confidentiality of reports. The University uses discretion when disclosing reports or information in reports internally, but all parties and witnesses should realize that there are circumstances when due process, Michigan public records laws, or other law requires the University to disclose information and/or records.

The University reserves the right to determine which 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 informed about the complaint. Information will be shared as necessary with Investigators, Decision-makers, witnesses, and the parties. The scope of individuals with this knowledge will be kept as narrow as possible to preserve the parties' rights and privacy.

The University may contact parents/guardians of students 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.

(Z) Immediate Assistance and Resources

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The University is committed to educational and working environments that are free from sexual harassment, sexual assault, interpersonal relationship violence, stalking, or retaliation based on sex discrimination. Individuals who experience sexual harassment in a University program or activity are encouraged to utilize one or more of the following options:

On-Campus

- a) Medical Assistance (Confidential) - Available to students, faculty, staff, visitors, third parties.
- b) Hickman Hospital 517.577.0000 [Sexual Assault Nurse Examiner (SANE) available – please ask for SANE nurse]
- c) Assistance from Siena Heights University Department of Public Safety (517.264.7799) and Law Enforcement (Non-Confidential) - Available to students, faculty, staff, visitors, third parties. Adrian Police
- d) Adrian Police Department dial 911 or 517-264-4808. Reports may be made to law enforcement and the University concurrently.
- e) Confidential Reporting Sources on campus
 - a. Siena Heights Counseling Center (Confidential) and Student Health Nurse- Available to students only.8:30 am – 5:00 pm. To schedule an appointment during regular office hours, call 517.264.7193 or email Sandy Morley at smorley@sienaheights.edu to initiate services. Some after-hours appointments are available.
 - b. Student Health Nurse, Sister Emmy Choge, OP, MSN, available during business hours can email for an appointment or just drop in echogel@sienaheights.edu, 517.264.7190
- f) off campus – Contact Catherine Cobb safe house, Adrian, Michigan, 517.265.5352. A representative is on call 24 hours.
- g) Report to the University Title IX Office (Non-Confidential) - Available to students, faculty, staff, visitors, third parties. (Anonymous reporting is available through the Title IX website)
- h) Siena Heights University Title IX Coordinator Sister Mary Jones, OP
mjones11@sienaheights.edu; 517.264.7105
<https://www.sienaheights.edu/title-ix/>

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You may also report online through our website at <http://www.sienaheights.edu/title-ix/>. This report may be made anonymously or with identifying information. To report anonymously, do not fill in your name, position, phone number, or email under "Reporters Information."