

## 2.8 INVESTIGATION AND HEARING PROCEDURES

### 1.0 Complaints and Jurisdiction

The Director of Student Responsibility and Community Standards, or designee, will serve as the coordinator for all Complaints arising under the policies contained in the Community Standards.

The Title IX Coordinator, or designee, will serve as the coordinator for all Complaints arising under Title IX Sexual Harassment Grievance Process.

Any Member of the University community may file a Complaint against any Student or Student Organization for misconduct or a violation of the Community Standards or any other University Policy. All Complaints should be submitted as soon as possible after the date of the alleged violation, preferably within one (1) year and filed with the Office of Student Responsibility and Community Standards by completing an Incident Report Form (<https://www.slu.edu/life-at-slu/community-standards/>).

### 2.0 Investigation Processes for Allegations of Community Standards Violations

Upon receipt of an Incident Report (IR), or other materials and reports, the Office of Student Responsibility and Community Standards (Office) will conduct an investigation to determine and identify resolutions. Generally speaking, the Office will determine the appropriate information gathering process for investigation. The Director of Student Responsibility and Community Standards or designee, shall have the discretion to deviate from these procedures when warranted based on the unique circumstances of a situation. The following information gathering processes may be utilized during an investigation.

An Administrative Review is when the IR provides sufficient information to move forward with the hearing procedures as outlined in Section 2.8 of the Community Standards.

An Informal Inquiry can be utilized to gather more information about a specific report, but does not constitute a full and formal investigation. An Informal Inquiry may involve meeting with the Reporting Party, witness(es), or other involved individuals to gather more information, or gathering other evidence as necessary (eg. video). An investigative report may be written when appropriate.

The Informal Inquiry can also include educational, restorative, and/or discretionary opportunities with students who are alleged to have violated the Community Standards but where a Formal Investigation and/or Hearing Process has been declined by the Reporting Party, and/or when the Director of Student Responsibility and Community Standards, or designee, determines that the discretionary outcomes will aid the individual student or the University community in maintaining a safe, inclusive, and educational environment.

A Formal Investigation may be utilized when an individual student alleges interpersonal violence or prohibited conduct by another student(s), when the preliminary information suggests that, if found responsible, the alleged Community Standards violations could result in suspension or expulsion from the University, or in other matters when the Director of Student Responsibility and Community Standards, or designee,

determines a Formal Investigation is the appropriate investigative strategy for resolving an allegation of Community Standards violations.

At the outset of a Formal Investigation, the Director of Student Responsibility and Community Standards, or designee, along with the Investigating Officer will outline an investigative strategy.

An advisor can be appointed to assist the Reporting Party and the Accused Party navigate the investigative process.

The Director of Student Responsibility and Community Standards, or designee will also work with the student(s) involved to provide any interim or supportive measures as needed and requested.

The components to a Formal Investigation include but are not limited to:

- an intake meeting with the Reporting Party and the Investigating Officer,
- the gathering of relevant evidence by the Investigating Officer from all parties involved,
- an investigative meeting with the Accused Party and the Investigating Officer,
- investigative meetings with witnesses and gathering witness statements (if applicable) by the Investigating Officer,
- confirmation of statement accuracy from participants, and
- the preparing of an Investigative Report.

At the conclusion of the investigation, the investigator will prepare a written report, an Investigative Report, that summarizes the information gathered during the investigation and identifies the potential policy violations. Before the report is finalized, both parties, as well as their advisors, may be given the opportunity to review a preliminary investigative report. Information collected during the investigation that is directly related to the allegations, regardless of whether it was included in the Investigative Report, may be shared with parties and their advisors, as well. Both parties may submit any additional comment or information to the investigator within ten (10) days of the opportunity to review the report. Upon receipt of any comment, or after the ten (10) day comment period has lapsed without comment, the investigator will finalize the report. This finalized report, which will include appropriate comments submitted by either party, will be given to the Hearing Officer.

### 3.0 Hearing Procedures for Community Standards Violations

- A. **Non-Suspendable Violations:** The following outlines the process for a Student that has allegedly committed a non-suspendable offense.

The Director of the Office of Student Responsibility and Community Standards, or designee, will investigate the violation.

1. Cases will be assigned to Housing and Residence Life or the Office of Student Responsibility and Community Standards for further action taking into consideration such things as whether the incident occurred in a residence hall and/or whether the Student(s) involved resides in a residence hall/apartment, and/or University-owned/managed housing.
2. A Hearing Officer will be assigned to meet with the Student.
3. Hearing Officer will determine meeting time and place. The meeting time will be scheduled using the Student's academic schedule. If there is a conflict with the academic

schedule, the Student must reach out to find an agreeable time with the Hearing Officer.

4. A hearing notification letter will be sent by the Hearing Officer to the Accused Student containing the alleged violation(s) and hearing details (time, day, location, etc.).
5. The Hearing Officer will meet with the Accused Student to discuss their rights as a Student, the incident, and review the alleged violations. A Student may take responsibility, be found responsible, or be found not responsible for violating the Community Standards.
6. If a Student takes responsibility or is found responsible, the Hearing Officer will assign appropriate outcomes, sanctions, and/or restorative actions. In determining whether a Student is responsible, a Hearing Officer will apply the preponderance of the evidence standard (more likely than not).
7. With the exception of suspension and expulsion, the Hearing Officer may impose any outcomes, sanctions, and/or restorative actions deemed appropriate under the circumstances and consistent with University Policy. In determining the appropriate sanction(s), the Hearing Officer may consider the following factors:
  - The nature and violence of the conduct at issue;
  - The impact of the conduct on the Reporting Party;
  - Impact or implications of the conduct on the community or the University;
  - Prior misconduct by the Accused Party, including the Accused Party's relevant prior discipline history;
  - Whether the Accused Party has accepted responsibility for the conduct;
  - Maintenance of a safe and respectful environment conducive to learning;
  - Protection of the University community; and,
  - Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Students will be notified of the outcome of the hearing via their SLU email address. If their SLU email address is inactive, they will receive notification via their email address on file upon application to the University or via permanent or local address on file with the University. The outcome letter will include:

- The finding(s) (responsible/not-responsible)
- Outcomes/Sanctions/Restorative Actions, if appropriate
- The appeal process

The grounds for appeal may only be based upon the following:

1. There was a material deviation from the procedures set forth in the Community Standards that would significantly impact the outcome of the case or may have resulted in a different finding;
2. New or relevant information, not available at the time of the hearing, has arisen that would significantly impact the outcome of the case.

As a general rule, neither the sanctions resulting from a disciplinary decision nor any change in the status of a Student will be enforced

until the appeal has been fully considered. However, each matter will be considered on a case-by-case basis, taking into account, among other things, the health and safety of individual community members and/or the community as a whole.

All appeals must be submitted within three (3) business days from the date on the outcome letter using the Community Standards Appeal Form ([https://cm.maxient.com/reportingform.php?SaintLouisUniv&layout\\_id=1](https://cm.maxient.com/reportingform.php?SaintLouisUniv&layout_id=1)). If an appeal is not received within three (3) business days, the Hearing Officer's determination is final.

Appeals for violations considered to be "non-suspendable" will be heard by the Community Standards Appeal Board (see Section 2.1.13), unless school is not in session, in which case, the appeal may be heard by the University Appeal Board, comprised of staff and/or faculty and/or Students. The decision by the University Appeal Board is the final decision in the case.

**B. Suspendable Violations:** The following outlines the process for a Student that has allegedly committed a suspendable offense. These procedures do not apply to Title IX Sexual Harassment violations. See Section 2.8.5 *Procedures for Title IX Sexual Harassment Grievance Process* or the University Title IX Sexual Harassment Policy in Section 1.18 of the Student Handbook for information pertaining to the Grievance Procedures under the Title IX Sexual Harassment Policy.

1. The Director of the Office of Student Responsibility and Community Standards, or designee, will investigate the violation.
2. The Director, or designee, will be assigned as the Hearing Officer for the case.
3. Throughout the process, a Reporting Party or Accused Party shall have an advisor provided by the University or an advisor of their choice present at any meeting related to the investigation or disciplinary proceeding. An advisor of choice may include an attorney of their choosing at the Party's own expense. An advisor provided by the University will be trained in regard to University policies, procedures, and resources. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. Advisors can participate in the resolution process in an advisory capacity, but they may not take part directly in the hearing itself and must demonstrate appropriate behavior. The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor. If a party wishes to speak privately with their advisor during the hearing, they may request a brief recess from the meeting or proceeding. The advisor may not be a fact witness or otherwise have any conflicting role in the process.
4. A hearing notification letter will be sent by the Hearing Officer to the Accused Student containing the alleged violation(s) and hearing details (time, day, location, etc.).
5. The Hearing Officer will meet with the Student to discuss their rights as a Student, the incident, and review the violations/charges. A Student may take responsibility, be found responsible, or be found not responsible for violating the Community Standards.
6. If a Student takes responsibility or is found responsible, the Hearing Officer Maker will assign appropriate outcomes, sanctions, and/or restorative actions and outline the Appeal Process. In determining whether a Student is responsible, the Hearing Officer will apply the preponderance of the evidence standard (more likely than not).

7. The Hearing Officer may impose any outcomes, sanctions, and/or restorative actions deemed appropriate under the circumstances and consistent with University Policy. In determining the appropriate sanction(s), the Hearing Officer may consider the following factors:

- The nature and violence of the conduct at issue;
- The impact of the conduct on the Reporting Party;
- The impact or implications of the conduct on the community or the University;
- Prior misconduct by the Accused Party, including the Accused Party's relevant prior discipline history;
- Whether the Accused Party has accepted responsibility for the conduct;
- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the University community; and,
- Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Barring extenuating circumstances, Students will be notified of the outcome of the hearing via email within fourteen (14) business days. The outcome letter will include:

- The finding(s) (responsible/not-responsible);
- Outcomes/Sanctions/Restorative Actions, if appropriate; and
- The appeal process.

The grounds for appeal may only be based upon the following

1. There was a material deviation from the procedures set forth in the Community Standards that would significantly impact the outcome of the case or may have resulted in a different finding
  - a. New or relevant information, not available at the time of the hearing, has arisen that would significantly impact the outcome of the case.

***Dissatisfaction with the outcome of the investigation, and failure of a Party or witness to attend or participate in the investigation or hearing process, are not grounds for appeal.***

As a general rule, neither the outcomes/sanctions/restorative actions resulting from a disciplinary decision nor any change in the status of a Student will be enforced until the appeal has been fully considered. However, each matter will be considered on a case-by-case basis, taking into account, among other things, the health and safety of individual community members and/or the community as a whole.

Appeals must be submitted within three (3) business days from the date on the outcome letter using the Community Standards Appeal Form ([https://cm.maxient.com/reportingform.php?SaintLouisUniv&layout\\_id=1](https://cm.maxient.com/reportingform.php?SaintLouisUniv&layout_id=1)). If an appeal is not received within three (3) business days, the Hearing Officer's determination is final. Appeals under this section will be heard by the University Appeal Board (see Section 2.1.). The decision by the University Appeal Board is the final decision in the case. In general, and only in cases when the outcomes are modified by the University Appeal Board to be more restrictive or increase with severity, these outcomes will

become recommendations upon the approval of the Vice President for Student Development, or designee.

## Student Organizations

All hearing procedures applicable to Accused Parties are also applicable to Student Organizations. Organizations that are not formally recognized by the University, but operate as a Student organization, will be held accountable for violations of University Policies and Community Standards and are subject to any and all sanctions that may be imposed.

## 4.0 Procedures for Alleged Misconduct Not Applicable to the University's Title IX Sexual Harassment Policy

The process for resolving reports of alleged violations not covered under Title IX Sexual Harassment policy will be prompt and equitable and conducted with the oversight of the University's Community Standard's process and the Director, or designee, of the Office of Student Responsibility and Community Standards.

These procedures apply to all forms of sexual and gender-based harassment and violence, intimate partner violence, stalking, and retaliation by or against Students for conduct that does not fall under the scope of the SLU Title IX Sexual Harassment policy. For the purposes of these procedures, "consent" is defined as the following:

- Effective Consent is an affirmative, knowing and voluntary decision – clearly communicated through mutually understandable words (e.g., saying "yes") and/or actions – to willingly engage in mutually acceptable sexual activity (e.g., to do the same thing, at the same time, in the same way, with another individual(s)).
- Effective Consent must be given freely, willingly, consciously and knowingly by each participant to any desired sexual contact.
- Consent may be withdrawn by any consenting party at any time during the sexual activity. Withdrawal of consent must be demonstrated by words and/or actions that indicate a desire to end sexual activity. Once an individual has communicated withdrawal of consent, all sexual activity must end.

The following outlines the Hearing Procedures that will be utilized for resolutions of alleged misconduct. A resolution involves an investigation and a hearing to determine if there has been a violation and whether or not a Party is responsible or not for a violation. In determining whether there has been a violation, OSRCS will apply the preponderance of the evidence standard (more likely than not).

Except for good cause, OSRCS will conclude its investigation, hearing, and appeal process as quickly as possible, within 90 university business days, while ensuring a fair and thorough process following receipt of a report. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. OSRCS may extend this time frame for good cause and will communicate any delay in the process in writing to the parties, including an updated timeframe for completion and the reason(s) for any delay. Good cause may exist for a variety of factors, including the complexity of the circumstances of each allegation, the integrity and completeness of the investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for breaks or vacations, or to address other legitimate reasons.

Throughout the process, a Reporting Party or Accused Party may have an Advisor provided by OSRCS or an Advisor of their choice present at any meeting related to the investigation or disciplinary proceeding. An Advisor of either Party's choice may include an attorney of their choosing at the Party's own expense.

The OSRCS Director, or designee, may assign an investigator to conduct a prompt, thorough and impartial investigation of reports of misconduct. The investigator will conduct a thorough and fair investigation resulting in a written report that summarizes the report, details the information gathered, identifies the potential Policy violations and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. Before the report is finalized, both parties, as well as their advisors, may be given the opportunity to review a preliminary investigative report. Information collected during the investigation that is directly related to the allegations, regardless of whether it was included in the Investigative Report, may be shared with parties and their advisors, as well. Both parties may submit any additional comment or information to the investigator within ten (10) days of the opportunity to review the report. Upon receipt of any comment, or after the ten (10) day comment period has passed without comment, the investigator will finalize the report. This finalized report, which will include appropriate comments submitted by either party, will be given to the Hearing Officer. The Reporting Party's prior sexual history will never be used as evidence of character or reputation, and will only be considered during an investigation or hearing under limited circumstances. Those circumstances include if the Reporting Party's prior sexual behavior is offered to prove that someone other than the Accused Party committed the conduct alleged by the Reporting Party or if the questions and evidence concern specific incidents of the Reporting Party's prior sexual behavior with respect to the Accused Party and are offered to prove consent.

This finalized report will be given to the Hearing Officer.

The Hearing Officer will provide notice to both parties that a Finalized Report has been received and will outline the violations alleged in the report. The Hearing Officer will provide an opportunity for the Reporting Party and Accused Party to meet with them to discuss the allegations. Any Party may submit written questions that they wish to be asked by the Hearing Officer of another Party. The Hearing Officer will then make a determination as to whether, based on the preponderance of the evidence standard, an act or acts of misconduct occurred.

If the Hearing Officer determines that misconduct occurred, the Hearing Officer will determine the appropriate sanctions. A determination of sanctions will be based on the facts and circumstances of each case and will be designed to eliminate the misconduct and prevent any recurrence of such misconduct. The Hearing Officer may impose any sanctions deemed appropriate under the circumstances and consistent with OSRCS procedures. In determining the appropriate sanction(s), the Hearing Officer may consider the following factors:

- The nature and violence of the conduct at issue;
- The impact of the conduct on the Reporting Party;
- The impact or implications of the conduct on the community or SLU community;
- Prior misconduct by the Accused Party, including the Accused Party's relevant prior discipline history, both at SLU or elsewhere, and any criminal convictions;
- Whether the Accused Party has accepted responsibility for the conduct;

- Maintenance of a safe and respectful environment conducive to learning;
- Protection of the SLU community; and
- Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Both the Reporting Party and Accused Party will simultaneously receive a written Notice of Outcome. The outcome letter will include the following:

- The Hearing Officer's finding(s) (responsible/not-responsible),
- Sanctions, if appropriate;
- Rationale for the findings and sanctions; and
- The appeal process.

Either party may appeal the decision of the Hearing Officer. All appeals are due, in writing, to the OSRCS Director, or designee, within three (3) University business days following receipt of the Notice of Outcome. If a request is not received within three (3) business days, the Hearing Officer's determination is final. The appeal shall consist of a plain, concise, and complete written statement outlining the basis for appeal and all relevant information to substantiate the grounds. The appeal will be decided by a panel of three members of the SLU community, either faculty or staff, that receive, at a minimum, annual training.

The grounds for appeal may only be based upon the following:

1. There was a material deviation from the procedures set forth in this Policy or the Community Standards that would significantly impact the outcome of the case or may have resulted in a different finding;
2. New or relevant information, not available at the time of the hearing, has arisen that would significantly impact the outcome of the case.

Dissatisfaction with the outcome of the investigation, and failure of a party or witness to attend or participate in the investigation or hearing process, are not grounds for appeal.

The other party will have an opportunity to review the appeal and may submit a written response to the appeal to the OSRCS Director, or designee, within three (3) University business days following a Party's review of the appeal. No additional submissions by either Party will be permitted.

Appeals are not intended to be a full rehearing of the report (de novo). In most cases, appeals are limited to a review of the written documentation and pertinent documentation regarding the grounds for appeal. Absent extraordinary circumstances the appeal panel will not meet with either party. The decision of the appeal panel is a final determination.

Except in extraordinary circumstances, appeals will be resolved within ten (10) University business days following receipt of the request for appeal. All parties will receive written notification following the final determination of any appeal.

If an Accused Party is suspended and wishes to return to campus after completing their period of suspension, SLU OSRCS shall notify the Reporting Party of the Accused Party's return if the Reporting Party is still enrolled at SLU.

## 5.0 Procedures for Title IX Sexual Harassment Grievance Process

Saint Louis University's process for resolving reports of Prohibited Conduct will be prompt and equitable and conducted with the oversight

of the Title IX Coordinator. This section details the entirety of the Grievance Process, which is initiated upon the Title IX Coordinator receiving a Formal Complaint. During the entirety of the Grievance Process, both Parties may request supportive measures be implemented to preserve the individual's access to education programs or activities.

#### A. Filing a Formal Complaint and Initiating the Grievance Process

A Formal Complaint is a document filed and signed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against the Respondent and requesting that the university investigate the allegation of Prohibited Conduct. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in an education program or activity at Saint Louis University. The Complainant cannot be anonymous and must sign their name on the Formal Complaint.

The Formal Complaint document may be provided to the Title IX Coordinator in person, online through this link ([https://urldefense.com/v3/\\_https://cm.maxient.com/reportingform.php?SaintLouisUniv&layout\\_id=18\\_!!K543PA!bWAU0iSk32DGCUt3wV94Li7kd6p9fgas2y\\_K2uSleXHexNhOVsUSzUdLbz6dXnGjy5Q3Yg\\$](https://urldefense.com/v3/_https://cm.maxient.com/reportingform.php?SaintLouisUniv&layout_id=18_!!K543PA!bWAU0iSk32DGCUt3wV94Li7kd6p9fgas2y_K2uSleXHexNhOVsUSzUdLbz6dXnGjy5Q3Yg$)), via mail or email and the Complainant may physically sign the document or electronically. To access the Formal Complaint document, click here or visit the Office of Institutional Equity and Diversity's website at <https://www.slu.edu/about/safety/sexual-assault-resources/index.php> (<https://www.slu.edu/about/safety/sexual-assault-resources/>). The Title IX Coordinator's contact information is located in Section 2.2 (p. 1) of this policy.

The Title IX Coordinator has the discretion to sign a Formal Complaint and initiate the Grievance Process even when a Complainant does not wish to do so. The Title IX Coordinator will consider the following factors when assessing whether to move forward with the Grievance Process:

- the severity of the conduct alleged including multiple accused individuals and/or the use of force;
- the risk of the conduct being repeated and the continuation of sexual harassment; and
- the availability of information or evidence.

See Section 2.9 (p. 1) of this policy for further details.

Once a Formal Complaint is filed, the Title IX Coordinator will conduct an initial assessment to determine whether the allegations fall within the jurisdiction of this policy based on the parties involved, the conduct alleged to have occurred, and the location of such conduct. The Title IX Coordinator *must* dismiss the Formal Complaint if

1. the Formal Complaint does not allege circumstances that meet the definition of sexual harassment if proven;
2. the conduct did not take place within an education activity or program;
3. the conduct did not occur within the United States; or
4. the Formal Complaint is not signed by someone that meets the definition of a Complainant.

The Title IX Coordinator has the discretion to dismiss a Formal Complaint when

1. the Complainant notifies the Title IX Coordinator that they wish to withdraw the Formal Complaint;

2. the Respondent is no longer enrolled at or employed by Saint Louis University; or
3. there are circumstances that prevent Saint Louis University from gathering the necessary information to make a determination regarding responsibility.

If the Title IX Coordinator dismisses a Formal Complaint either as a mandatory dismissal or a discretionary dismissal, both the Complainant and the Respondent will receive written notice of the dismissal and the reasons for the dismissal. Both the Complainant and the Respondent have the right to appeal the decision to dismiss. Such an appeal will follow the same appeal procedures outlined in Section 2.11 (p. 1)(E).

If a Formal Complaint is dismissed under Title IX, the university may address the Prohibited Conduct as a violation of the Student Code of Conduct, the Faculty Manual, or the *Staff Performance Management Policy*. In those instances, Complainants will be connected to the Office of Student Responsibility and Community Standards, the Office of Institutional Equity and Diversity, or other appropriate office.

The Title IX Coordinator may consolidate two or more Formal Complaints when there are common Complainants or Respondents involved or when the sexual harassment arises out of the same facts or circumstances.

Once the Title IX Coordinator has confirmed that the Formal Complaint will not be dismissed, the Complainant and Respondent will be notified in writing of the following:

- The allegations including the date, time, location, parties involved, and the conduct alleged to have occurred;
- The corresponding policy violations under this policy and/or other relevant university policy;
- An explanation of the Grievance Process and their rights under this policy;
- The presumption that the Respondent is not responsible for any policy violation prior to a finding of such at the conclusion of the Grievance Process;
- The right to an advisor;
- The use of the preponderance of the evidence standard throughout the Grievance Process;
- The right to inspect all information and evidence collected during the Grievance Process;
- A proposed date and time to meet with the investigator that provides sufficient time for each party to review this policy, to decide on their choice of advisor or to request that one be appointed by the university, and to prepare for an investigative meeting;
- The available supportive measures;
- The range of possible sanctions should the end of the Grievance Process result in a finding of responsibility.

Should additional allegations arise after the initial notice of the allegations is provided to the Parties, an amended or second notice of allegations will be provided in writing to the Parties explaining the additional conduct alleged to have occurred.

The following basic principles apply throughout the entirety of the Grievance Process:

- A. Both the Complainant and the Respondent will be treated equitably;
- B. There will be an objective evaluation of all evidence, both inculpatory and exculpatory, and a determination of credibility will not be made based on a person's status as a Complainant, Respondent, or witness;
- C. The Title IX Coordinator, Investigators, and adjudicators will be trained and free from any conflict of interest;
- D. The Respondent will be presumed not responsible throughout the Grievance Process unless a finding of responsibility is made at the conclusion of the Grievance Process.
- E. Each Party has the right to appeal a decision made by the hearing panel;
- F. Each Party will be provided the range of available support measures and these measures will remain an option for the Parties throughout the Grievance Process;
- G. Each Party will be provided a range of possible sanctions should the end of the Grievance Process result in a finding of responsibility.
- H. The university will adhere to reasonably prompt timeframes for the resolution of all Formal Complaints, but will allow for delays with good cause;
- I. Evidence of information that is protected by a legally recognized privilege, for example, conversations between a doctor and patient or attorney and client, will not be included in the Grievance Process without written consent from the Party holding the privilege;
- J. The preponderance of the evidence is the standard of evidence utilized throughout the entirety of the Grievance Process.

#### B. Right to an Advisor

Throughout the process, a Complainant or Respondent may have an advisor provided by the university or an advisor of their choice present at any meeting or proceeding related to the investigation or Grievance Process. An advisor of choice may include an attorney retained by a Party at their own expense. An advisor provided by the university will have training that includes, but is not limited to, the following:

- the definition of sexual harassment;
- the grievance process as outlined in this section,
- the Rules of Decorum for the hearing,
- cross examination and relevancy as discussed in Section 2.11 (p. 1)(D),
- the role of technology in the Grievance Process, and
- supportive measures available to both Complainants and Respondents.

While a Party may decide not to use an advisor for any portion other than the hearing, any person who serves as an advisor should plan to make themselves available for meetings and proceedings throughout the process. Advisors may participate in university processes in an advisory capacity, but they may not take part directly in the investigation, hearing, or appeal, with the exception of conducting cross-examination during a hearing. If a Party wishes to speak privately with their advisor during the investigation or hearing, they may request a brief recess from the

meeting or proceeding. The university has the right to determine what constitutes appropriate behavior on the part of an advisor as discussed in the Rules of Decorum. The advisor may not be a fact witness or otherwise have any conflicting role in the process.

#### C. Timeframe for Investigation, Determinations and Appeal

Except for good cause, the university will conclude its investigation, hearing, and appeal process within ninety (90) calendar days following receipt of a report. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness, fairness, and impartiality. The university may extend this time frame for good cause and will communicate any delay in the process in writing to the Parties, including an updated timeframe for completion and the reason(s) for any delay. Good cause may exist for a variety of factors, including the complexity of the circumstances of each allegation, the integrity and completeness of the investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for university breaks or vacations, or to address other legitimate reasons.

#### D. Investigation

When a Formal Complaint meets the requirements under Section 2.11 (p. 1)(A), the Title IX Coordinator, or designee, will assign a trained investigator to conduct a prompt, thorough and impartial investigation of allegations contained in the Formal Complaint. All Parties and witnesses are expected to provide truthful information. Knowingly providing false or misleading information is a violation of university policy and can subject a Student or Employee to disciplinary action. The investigator or designee will provide timely updates, as appropriate or requested, about the timing and status of the investigation.

It is the responsibility of the university, not the Parties, to gather relevant information, to the extent reasonably possible. The investigator will conduct a fair and reliable fact-gathering based on the allegations in the Formal Complaint. The investigator will be responsible for

- interviewing the Complainant and the Respondent, interviewing potential witnesses;
- collecting relevant documentation and physical evidence, including documents, communications between the Parties, and other electronic records as appropriate;
- creating a timeline; and
- preparing a written report documenting the complete investigation.

The Complainant and the Respondent will have an equal opportunity to be heard, to submit both inculpatory and exculpatory information, and to identify fact and expert witnesses who may have relevant information. Witnesses must have observed the acts in question, have information relevant to the incident, or offer information that speaks to a Party's individual's character. Neither Party is restricted in any way from discussing the allegations or gathering evidence or information about the allegations. The investigator will send each Party and their advisor a written notice of any investigative interview, meeting or other proceeding to which they are invited and expected to attend. This written notice will include the date, time, location, the names of those who will be present, and the purpose of the meeting, interview or other proceeding. Parties will be given sufficient time to prepare for such meetings, interviews, or other proceedings.

Medical and counseling records of either Party are privileged confidential records that the university cannot access, consider, disclose, or otherwise utilize without the express written consent of the Party that holds the privilege. If a Party decides to share such records with the Investigator after providing their written consent, those records become a part of the investigation and are available for review by the opposing Party. Records maintained by the following are examples of privileged medical records:

- a physician,
- a psychiatrist,
- a psychologist, or
- other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment of the Party.

Additionally, records pertaining to conversations between an attorney and their client, as well as conversations between an individual and a member of the clergy or ordained minister pursuant to seeking spiritual advice, are privileged. These are also records that the university cannot access, consider, disclose, or otherwise utilize without the express written consent of the Party that holds the privilege. If a Party decides to share such records with the Investigator after providing their written consent, those records become a part of the investigation and are available for review by the opposing Party.

A Complainant's prior sexual history will never be used as evidence of character or reputation, and will only be considered during an investigation or hearing under limited circumstances. Those circumstances include the Complainant's prior sexual behavior is 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.

At the conclusion of the investigation, the investigator will prepare a written report that summarizes the information gathered during the investigation, identifies the potential policy violations and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. Before the report is finalized, the Complainant and the Respondent, as well as their advisors, will be given the opportunity to review a preliminary investigative report as well as all information or evidence gathered that is directly related to the allegations regardless of whether it was included in the preliminary investigative report or not. These materials will be made available to the Parties and their advisors electronically. The Complainant and the Respondent may submit any additional comment or information to the investigator within ten (10) days of the opportunity to review the report. Upon receipt of any additional information by either Party, or after the ten (10) day comment period has lapsed without comment, the investigator will finalize the report. This finalized report, which will include any appropriate comments submitted by either Party, will be given to the hearing panel.

The investigator will seek to complete the investigation and provide that investigation to the Hearing Panel and the Parties within forty-five (45) days of receiving the Formal Complaint, but this time frame may be extended depending on the complexity of the

circumstances of each case. Both the hearing panel and the Parties will receive the investigation electronically.

#### E. Live Hearings and Sanctions

The Title IX Coordinator will appoint a hearing panel to be comprised of three trained individuals, usually Saint Louis University staff or faculty. The Title IX Coordinator may choose to appoint members of the hearing panel who are not employed by or otherwise affiliated with the university. The hearing panel will receive the final investigative report and conduct a live hearing with the Complainant and the Respondent and their advisors. The three members of the hearing panel are equal decision-makers and are responsible for deciding whether the Respondent is or is not responsible for violating university policy based on the notice of allegations provided to the Respondent. A minimum of two of the three members of the hearing panel must decide that it is more likely than not that the Respondent is responsible in order for a finding of responsible to be made. If only one or none of the members of the hearing panel believe it is more likely than not that the Respondent is responsible, then the Respondent must be found not responsible. A determination must be made for each policy violation alleged. The Title IX Coordinator and the investigator cannot serve as members of the hearing panel. The members of the hearing panel will be free from bias or conflicts of interest that prevent them from serving in this role.

The Title IX Coordinator will appoint one of the three members of the hearing panel to serve in the role of the hearing chair. The hearing chair will be responsible for the following:

- Providing written notice of the date and time of the hearing to the Parties and their advisors allowing for sufficient time for the Parties to prepare to participate;
- Choosing a date for the hearing that is not sooner than ten (10) days from the conclusion of the investigative report and its dissemination to the Parties;
- Inquiring as to what advisor will be present for the hearing for each Party and whether or not either Party is requesting that the university provide an advisor;
- Answering any questions prior to the hearing about procedure or the Rules of Decorum;
- Providing a preliminary decision as to any inquiries of whether a question or topic will be considered relevant at the live hearing, noting that all final decisions of relevancy must be made during the live hearing;
- Communicating the date and time of the hearing with all witnesses and coordinating the appropriate time for their participation;
- Conducting the hearing proceedings, including but not limited to:
  - opening remarks by the hearing chair;
  - providing an opportunity for opening statements;
  - introduction and initial questioning of the Parties and witnesses, providing an opportunity for cross examination;
  - providing an opportunity for closing statements;
  - closing remarks by the hearing chair;
- Determining the relevancy of each question asked by an advisor of a Party or witness during the hearing;
- Providing an explanation for any decision to exclude a question based on relevance during the hearing;

- Upholding the Rules of Decorum and notifying Parties, witnesses, or advisors when they are in violation of the Rules of Decorum, including the decision to remove an individual from the hearing for repeated violations;
- Maintaining the hearing schedule and ensuring the hearing occurs in a timely fashion;
- Creating an audio or audiovisual recording or transcript of the hearing;
- Summarizing the hearing panel's decision regarding responsibility in a written document that will be provided to the Parties and their advisors.

All hearings will be conducted using video-conferencing technology so that the Parties may see and hear each other without being present in the same room. Each hearing will begin by the hearing chair providing opening remarks. Opening remarks will include the identity of the Parties and their advisors, what university policy violation(s) are alleged to have occurred, the application of the preponderance of the evidence standard, and a review of the expectations outlined in the Rules of Decorum. The hearing chair will then provide the Complainant and the Respondent an opportunity to give an opening statement no longer than 5 minutes in length. The Complainant will be given the opportunity first and then the Respondent. The Party, not their advisor, may give the opening statement and no Party is required to give an opening statement. The purpose of an opening statement is to provide the hearing panel with an outline of what information the Party anticipates will be shared during the hearing and how that will impact the hearing panel's decision at the conclusion of the hearing. Only information that is relevant and anticipated to be heard during the hearing may be offered during an opening statement.

The hearing chair will first invite the Complainant to answer questions from the hearing panel. All questions asked by the hearing panel must be relevant. Relevant questions are those that call for information that will assist the members of the hearing panel in deciding whether the allegation(s) and information in the investigation is either more or less likely to be true. A question cannot be excluded on the basis of relevance if solely because it calls for prejudicial evidence or evidence of character. Questions concerning the Complainant's sexual history are not relevant unless 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.

At the conclusion of the hearing panel's questions, the Respondent's advisor will have the opportunity to engage in cross examination of the Complainant by asking questions directly, orally and in real time through video conferencing. The hearing chair will determine whether each question asked by the advisor is relevant prior to the Complainant responding.

The hearing chair will next invite the Respondent to answer relevant questions from the hearing panel. At the conclusion of the hearing panel's questions, the Complainant's advisor will have the opportunity to engage in cross examination by asking questions directly, orally and in real time through video conferencing. The hearing chair will determine whether each question asked by the advisor is relevant prior to the Respondent responding. If either

Party does not obtain an advisor, the university will provide a trained advisor for the purpose of conducting cross examination on the Party's behalf. If the Respondent and their advisor do not attend the hearing, the university will provide a trained advisor solely for the purpose of having the opportunity to conduct cross examination of the Complainant and any witnesses that attend the hearing.

After both Parties have had the opportunity to be questioned by the hearing panel as well as the opposing Party's advisor, the hearing chair will call each witness included in the investigative report to be questioned. The hearing chair will determine in what order these witnesses will be questioned. After the hearing panel has concluded their questions of a witness, each Party's advisor will have the opportunity to cross examine that witness by asking questions directly, orally, and in real time through video conferencing. The hearing chair will decide which advisor will have the opportunity to cross examine a witness first by alternating between the Complainant's advisor and the Respondent's advisor. Again, the hearing chair will determine whether every question asked is relevant prior to the witness responding.

If a Party or witness does not attend the hearing and submit to cross examination, the hearing panel must not rely on any statement made by that Party or witness in reaching a determination regarding responsibility. The hearing panel is also not permitted to draw an inference about the determination regarding responsibility based solely on the absence of a Party or witness from the hearing or their refusal to answer questions from the hearing panel or during cross examination. If the Respondent and their advisor does not appear at the hearing, the university will provide an advisor who is available to conduct the cross examination of the Complainant.

The hearing chair will then provide the Complainant and the Respondent an opportunity to give a closing statement no longer than 10 minutes in length. The Complainant will be given the opportunity first and then the Respondent. The Party, not their advisor, must give the closing statement and no Party is required to give a closing statement. A closing statement may include a summary of the information shared during the hearing and the impact the Party believes it has on the decision before the hearing panel. It may also include how the Party has been impacted by the allegations and what their desired outcome of the hearing is.

At the conclusion of any closing statements offered, the hearing chair will provide closing remarks that conclude the hearing and provide both Parties with an anticipated date that they will receive the decision of the hearing panel. This decision will be provided to the Parties simultaneously and in writing. The written decision will include the following:

- Identification of each allegation and the corresponding policy violation;
- An explanation of the procedural steps taken through the entirety of the Grievance Process including the initial notice of investigation, dates of the interviews of each Party and witness, site visits, methods used to gather other evidence, and the date and summary of the live hearing;
- A determination regarding responsibility for each alleged policy violation;
- Findings of fact made by the hearing panel that led to their decision, conclusions about whether the alleged conduct



occurred, and a rationale for the finding for each alleged policy violation;

- Any disciplinary sanctions imposed on the Respondent;
- Any remedies will be provided to the Complainant;
- An explanation of each Party's right to appeal and the appeal process.

If the hearing panel determines that the Respondent is responsible for one or more forms of Prohibited Conduct, the Hearing Panel will determine the appropriate sanctions. A determination of sanctions will be based on the facts and circumstances of each case and will be designed to eliminate the Prohibited Conduct and prevent any reoccurrence of such Prohibited Conduct. Any determination for sanctions will be rooted in the university's educational mission, institutional values, and Title IX obligations.

Sanctions for a violation of this policy by a student may include:

- expulsion;
- suspension;
- disciplinary probation;
- mandated counseling assessment which may include anger management course(s), alcohol and/or drug education program(s), and other requirements based upon the counseling assessment;
- restrictions on campus privileges including restrictions on campus housing or participation in student activities;
- community service; and/or
- other educational sanctions.

Sanctions for a violation of this policy by an employee may include:

- leave with pay,
- leave without pay,
- termination,
- change in job responsibilities or duties,
- relocation of assignment,
- mandated counseling or anger management assessment,
- mandated training, such as sexual harassment training.

In determining the appropriate sanction, the hearing panel may consider the following factors:

- The nature and violence of the conduct at issue;
- The impact of the conduct on the Complainant;
- The impact of the conduct on the university community;
- Prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at the university or elsewhere, and any criminal convictions;
- How the university has previously sanctioned similar conduct;
- Whether the Respondent has accepted responsibility for the conduct;
- Maintenance of a safe and respectful learning, living and working environment;
- Protection of the university community; and
- Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate outcome in each case.

If a Respondent wishes to return to campus after completing their period of suspension, the university shall notify the Complainant if

- a. the Respondent's request to return has been approved and
- b. the Complainant is currently enrolled in the university.

## F. Appeals

Either Party may appeal the decision of the hearing panel or the decision of the Title IX Coordinator to dismiss a Formal Complaint. All appeals are due, in writing, to the Title IX Coordinator in the Office of Institutional Equity and Diversity, or their designee, within three (3) university business days following receipt of the written decision of the hearing panel regarding responsibility or the written decision of the Title IX Coordinator to dismiss a Formal Complaint. If a request is not received within three (3) business days, the hearing panel's or Title IX Coordinator's determination is final.

The appeal shall consist of a plain, concise and complete written statement outlining the basis for appeal and all relevant information to substantiate the grounds.

The Title IX Coordinator will appoint an appeal panel to be comprised of three trained individuals, usually Saint Louis University staff or faculty. In some circumstances the Title IX Coordinator may choose to appoint external members to the appeal panel. The members of the appeal panel will be trained and free from bias or a conflict of interest that would prevent them from serving as a member of the appeal panel.

The grounds for appeal may only be one or more of the following:

- There was a material deviation from the procedures set forth in this policy or applicable provisions of the Student Handbook that would significantly impact the outcome of the case or may have resulted in a different finding;
- New or relevant information, not available at the time of the investigation or hearing, has arisen that would significantly impact the outcome of the case;
- The Title IX Coordinator, investigator, or member of the Hearing Panel had a conflict of interest or bias that affected the outcome of the case.

Dissatisfaction with the outcome of the investigation, and failure of a Party or witness to attend or participate in the investigation or hearing process, are not grounds for appeal.

The other Party will have an opportunity to review the appeal and may submit a written response to the appeal to the Title IX Coordinator in the Office of Institutional Equity and Diversity, or designee, within three (3) university business days following a Party's review of the appeal. No additional submissions by either Party will be permitted.

Appeals are not intended to be a full rehearing of the report (de novo). In most cases, appeals are limited to a review of the written documentation and pertinent documentation regarding the grounds for appeal. Absent extraordinary circumstances the appeal panel will not meet with either Party. The decision of the appeal panel is a final determination.

Except in extraordinary circumstances, appeals will be resolved within fifteen (15) university business days following receipt of response to the appeal or when the three (3) day deadline to receive a response to the appeal has lapsed. All Parties will receive written notification following the final determination of any appeal. The

written decision of the appeal panel will include the decision made by the appeal panel as well as the rationale for that decision.