

# **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

**Section 1. General Policy Statement.** Park University's ("University") core values include fostering an open learning and working environment full of inclusivity, accountability, civility, and respect. The University considers sex discrimination in all its forms to be a serious offense and a violation of this policy, and federal law. The University is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 ("Title IX"), which prohibits discrimination on the basis of sex in education programs or activities; Title VII of the Civil Rights Act of 1964 ("Title VII"), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act ("SaVE Act"), Violence Against Women Act ("VAWA"), and Clery Act. The University will promptly discipline any individuals within its control who violate this Policy. The University encourages you to promptly report incidents that could constitute violations of this Policy to the Title IX Coordinator (as outlined in Section 3.1 of this Policy).

**Section 2. Applicability.** This Policy applies to all University administrators, faculty, staff, students, contractors, outside vendors, and other third parties within the University's control, including visitors, invitees, and applicants for admission or employment. It applies to conduct that occurs on University owned or controlled premises, in an education program or activity (including, but not limited to, admissions, employment, academics, athletics, housing, and student services) including University sponsored or supported events, buildings owned or controlled by student organizations officially recognized by the University, or off campus when the conduct potentially affects a person's education or employment with the University or potentially poses a risk of harm to members of the University community. It also applies regardless of the gender, gender identity or sexual orientation of the parties.

**Section 3. Reporting Incidents.**

3.1 **Reporting.** Reporting Sexual Misconduct incidents informs the University of the incident, which allows the University to provide Supportive Measures (as outlined in Section 5 of this Policy) to the Complainant and does not necessarily result in the initiation of the Complaint Resolution Process (as outlined in Section 7 of this Policy). All Complainants who report incidents of Sexual Misconduct will be offered individualized Supportive Measures.

- (a) Any person may report Sexual Misconduct, Retaliation, or other conduct prohibited under this Policy to the Title IX Coordinator, whether or not the person reporting is the person alleged to be the victim of the incident, and it can be a verbal or written report to the Title IX Coordinator or any deputy coordinators:

Dr. Roger Dusing  
Chief Human Resources Officer  
Title IX Coordinator  
Roger.Dusing@park.edu  
816-584-6386

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

Dr. Jayme Uden  
Deputy Title IX Coordinator for Students and  
Associate Vice President & Dean of Students  
Jayme.Uden@park.edu  
(816) 584-6595

Dr. Emily Sallee  
Deputy Title IX Coordinator for Faculty and  
Associate Provost  
Emily.Sallee@park.edu  
(816) 584-6779

Mr. James Nelson  
Deputy Title IX Coordinator for Staff and  
Associate Vice President of Information Technology Services  
James.Nelson@park.edu  
(816) 584-6444

A report may also be submitted using the University's Sexual Harassment Report Form, available at: [www.park.edu/title-ix/sexual-harassment-form/](http://www.park.edu/title-ix/sexual-harassment-form/)

- (b) Filing a Formal Complaint. The Complainant may file a Formal Complaint with the Title IX Coordinator, as outlined in Section 3.4 of this Policy. A Formal Complaint, including the information detailed in Section 7.3 below, must be filed if a Complainant wishes to initiate the Complaint Resolution Process.
  - (c) Anonymity. You may make an anonymous report by telephone, in writing or electronically through the Park University Sexual Harassment Report Form with the Title IX Office or using the University's Concern form, available at: <https://my.park.edu/ics/student/concerncomplaint>. Your decision to remain anonymous, however, may greatly limit the University's ability to stop the alleged conduct, collect evidence, or take action against parties accused of violating this Policy.
  - (d) Confidentiality. You can discuss an incident in strict confidence by using the confidential resources outlined in Section 3.5 of this Policy.
  - (e) Timeliness of Reporting. Responsible Employees are required to report known incidents of and/or information regarding Sexual Misconduct promptly to the Title IX Coordinator. For others in the University community, you are strongly encouraged to report Sexual Misconduct, Retaliation, and any other conduct prohibited under this Policy as soon as you become aware of such conduct.
- 3.2 Reporting to Law Enforcement. You may also file a report with Campus Safety at 816-584-6444 or to the Parkville, MO Police Department 816-741-4454 (non-emergency) or 911 (emergency) or to other local law enforcement authorities.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

Gilbert Students may also contact the Gilbert, AZ Police Department 480-503-6500 (non-emergency) or 911 (emergency) The Title IX Office can help individuals contact these law enforcement agencies. Employees and students with protective or restraining orders relevant to a complaint are encouraged to provide a copy to the Campus Safety.

- 3.3 Reporting to Outside Entities. You may also contact the following external agencies:

For students:

Office for Civil Rights  
U.S. Department of Education  
Office for Civil Rights,  
*Kansas City Office*  
U.S. Department of Education  
One Petticoat Lane  
1010 Walnut Street, Suite 320  
Kansas City, MO 64106  
Telephone: (816) 268-0550  
Facsimile: (816) 268-0559  
Email: OCR.KansasCity@ed.gov

Office for Civil Rights  
U.S. Department of Health and Human Services  
Steven Mitchell, Regional Manager  
Office for Civil Rights  
U.S. Department of Health and Human Services  
233 N. Michigan Ave., Suite 240  
Chicago, IL 60601  
Customer Response Center: (800) 368-1019  
Fax: (202) 619-3818  
TDD: (800) 537-7697  
Email: [ocrmail@hhs.gov](mailto:ocrmail@hhs.gov)

For employees:

U.S. Equal Employment Opportunity Commission  
St. Louis District Office  
Robert A. Young Federal Building  
1222 Spruce St.  
Rm 8.100  
St. Louis, MO 63103  
Telephone: (800) 669-4000  
Fax: (314) 539-7894  
TTY 1-800-669-6820

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

Missouri Commission on Human Rights  
3315 W. Truman Blvd., Rm 212  
P.O. Box 1129  
Jefferson City, MO 65102-1129  
Telephone: (573) 751-3325  
Toll-Free Complaint Hotline: (877) 781-4236  
Fax: (573) 751-2905  
mchr@labor.mo.gov

- 3.4 Confidential Support and Resources. Students may discuss an incident with Confidential Employees or an off-campus resource (e.g., rape crisis center, doctor, psychologist, clergyperson, etc.) without concern that the person's identity will be reported to the Title IX Office. Employees may also seek assistance from the Employee Assistance Program, their own personal health care provider, the clergyperson of their choice, or an off-campus rape crisis resource without concern that the person's identity will be reported to the Title IX Office.
- (a) When consulting University resources, all parties should be aware of confidentiality, privacy, and mandatory reporting to make informed choices. At the University's Parkville, Missouri campus, some resources can offer confidentiality, sharing options and advice without any obligation to tell anyone unless Complainant prefers it. Other resources are expressly there to report crimes and policy violations and will take action when the incident is reported to them. Most University resources fall in the middle of these two extremes. Neither the University nor the law requires them to divulge private information that is shared with them except in certain circumstances, some of which are described below. A Complainant may seek assistance from these University officials without starting a formal process that is beyond the Complainant's control, or violates her/his privacy.
  - (b) *Report Confidentially.* If one desires that details of the incident be kept confidential, they should speak with on-campus mental health counselors or off-campus rape crisis resources who can maintain confidentiality. The University recommends MOCSA and/or Synergy Services for students in the Kansas City area. For students outside the KC metropolitan area, please dial 211 or connect online with 211 for United Way Resources in a particular area. Campus counselors are available to help Parkville-area students free of charge after the first experience of a situation, and they will provide off-campus resources specializing in services important for the complainant.
  - (c) University counselors will not report incidents to the University for investigation without consent. However, when the situation involves a crime, they will notify the appropriate University personnel for the sole reason of including the crime in the University's annual crime statistics disclosure. The Complainant's name will not be divulged in this situation. University counselors also will notify appropriate University personnel if the

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

incident suggests a Complainant or Respondent poses a danger to themselves or others.

- (d) Advice may be sought from certain resources who are not required to tell anyone else any private, personally identifiable information unless there is cause for fear of safety or the safety of others. These are individuals who the University has not specifically designated as “persons with authority” for purposes of putting the institution on notice or “Responsible Persons” for whom mandatory reporting is required, other than in the stated limited circumstances. Recommended University staff include:

- (i) Mya Lawrence, Director of Student Engagement, 816-584-6375.

If unsure of a staff member’s duties and ability to maintain privacy, ask them before speaking to them. They will be able to provide the relevant privacy information, and help make decisions about who can help best. If personally identifiable information is shared, it will only be shared as necessary with as few people as possible, and all efforts will be made for privacy protection.

- 3.5 Amnesty from University Drug, Alcohol, and Related Policies. The University encourages reporting and recognizes that an individual who has been drinking or using drugs at the time of an incident may be hesitant to make a report because of potential consequences for their own conduct, which may violate other University policies, codes of conduct, and handbooks. To encourage reporting of Sexual Misconduct, the University may grant immunity from student and/or employee disciplinary action to a person who acts in good faith in reporting an incident, filing a Formal Complaint, or participating in a Complaint Resolution Process (e.g., investigation, hearing, appeal), so long as such violations did not and do not place the health or safety of any other person at risk. This immunity does not extend to the person’s own violations of this Policy. The University may initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs. Though the University may waive disciplinary action under its policies related to the use of alcohol or drugs as indicated above, it retains the right to report any illegal use of these substances as required by law and will act in compliance with those laws.

### **Section 4. Parties’ Rights Regarding Confidentiality, Requests to Not Investigate, and Requests to Dismiss Formal Complaints.**

The University has great respect for the privacy of the parties identified in a report or Formal Complaint. Under state law, however, Responsible Employees who receive information of alleged Sexual Misconduct must share that information with the Title IX Coordinator. As such, the University may need to act to maintain campus safety and must determine whether to investigate further, regardless of the Complainant’s request for confidentiality or request to not investigate a report received by the Title IX Coordinator.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

In making determinations regarding requests for confidentiality, Complainants' requests to not investigate, Complainants' requests to dismiss Formal Complaints, and/or requests to not disclose identifying information to Respondents, the Title IX Coordinator must deliberately weigh the rights, interests, and safety of the Complainant, the Respondent, and the campus community. Factors the University must consider when determining whether to investigate an alleged incident of Sexual Misconduct include, but are not limited to:

- The seriousness of the alleged incident;
- Whether the University has received other reports of alleged Sexual Misconduct by the alleged Respondent;
- Whether the alleged incident poses a risk of harm to others; and
- Any other factors the University determines relevant.

If the Complainant requests in writing that the University not investigate a report, the University must inform the Complainant of the decision whether or not to investigate.

If the University dismisses a Formal Complaint (as outlined in Section 7.4(a) of this Policy), the University must provide the Complainant and Respondent a written notice of the dismissal and the reason(s) for the dismissal.

In the course of the Complaint Resolution Process, the University may share information only as necessary with people who need to know in compliance with the law, which may include but is not limited to the investigators, witnesses, Complainant, Respondent, parties' Advisors, Hearing Officer, and the Appeals Hearing Officer—if applicable. The University will take all reasonable steps to ensure there is no retaliation against the parties or any other participants in the investigation or in any other part of the Complaint Resolution Process.

### **Section 5. Supportive Measures.**

The University will offer reasonably available individualized services, without any fee or charge, to the parties involved in a reported incident of Sexual Misconduct with or without the filing of a Formal Complaint, when applicable.

Supportive Measures may include, but are not limited to, modifications to: academic schedules, campus housing, student leadership, working situations, as well as providing academic support or making special arrangements for a leave of absence, withdrawing, or dropping classes without penalty, if requested and reasonably available. Mutual restrictions on contact between the parties may also be imposed. The University may impose such other similar measures as it deems necessary and tailored to the individualized needs of the parties.

Supportive Measures are non-disciplinary and non-punitive measures that do not unreasonably burden the other party. Any disciplinary or punitive measures may only be

# **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

implemented following the conclusion of the Complaint Resolution Process, unless an emergency removal (as outlined in Section 7.19) is appropriate.

The University will maintain the confidentiality of Supportive Measures provided to the parties, to the extent that maintaining such confidentiality does not impair the ability of the University to provide the Supportive Measures.

## **Section 6. Key Players In The Title IX Complaint Resolution Process.**

- 6.1 Title IX Coordinator and Deputy Title IX Coordinators. The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX and is responsible for the University's administrative response to reports and Formal Complaints of Sexual Misconduct, Retaliation, and other conduct prohibited under this Policy. The Title IX Coordinator is available to discuss the Complaint Resolution Process, coordinate Supportive Measures, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators to facilitate these responsibilities. Any member of the University community may contact the Title IX Coordinator with questions.
- 6.2 Investigator(s). The University will ensure that Formal Complaints are properly investigated under this Policy by investigators assigned to the Formal Complaint. The investigators are neutral and impartial fact-finders, and gather evidence during the investigation. The investigators are responsible for completing an investigation report at the conclusion of the investigation. The Title IX Deputy Coordinators may supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary to ensure compliance with Title IX.
- 6.3 Hearing Officer. A Hearing Officer is responsible for conducting the Title IX Complaint Resolution Process hearing in an orderly manner, controlling the conduct of all participants and attendees of the hearing, and rendering a written determination regarding responsibility with respect to the Respondent's alleged conduct charges in an impartial, neutral, and objective manner.
- 6.4 Advisors. An advisor a person chosen by a party or appointed by the University to accompany the party to meetings related to the Complaint Resolution Process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- 6.5 Advocate. The University will appoint an advocate, who will be an investigator who is not otherwise involved in the Complaint Resolution Process, to each party to serve as a resource regarding the Title IX Complaint Resolution Process.
- 6.6 Appeals Hearing Officer. A single Appeal decision-maker will be designated who has not been involved in any way in the Complaint Resolution Process previously.

## **Section 7. The Complaint Resolution Process.**

# PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

---

## 7.1 Definitions.

- (a) **Coercion** — The use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including psychological or emotional pressure, physical or emotional threats, intimidation, manipulation, or blackmail that causes the person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they eliminate a reasonable person's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include but are not limited to threatening to "out" someone based on sexual orientation, gender identity, or gender expression; threatening to harm oneself if the other party does not engage in the sexual activity; and threatening to expose someone's prior sexual activity to another person.
- (b) **Complainant** — The individual who is alleged to be the victim of any prohibited conduct under this Policy.
- (c) **Confidential Employees** — Confidential Employees include counselors in the Counseling Center or clergypersons. Additionally, employees who receive information regarding an incident of Sexual Misconduct under circumstances that render the employee's communications confidential or privileged under other law (such as attorneys) are also considered "Confidential Employees."

**Note:** Confidential Employees who receive information regarding incidents of Sexual Harassment, Sexual Assault, Dating Violence or Stalking committed by or against a student or an employee of the University, are required to report the **type of incident** to the Title IX Coordinator (or Deputy Coordinators). Confidential Employees may not include any information that would violate a student's expectation of privacy. The Confidential Employee's duty to report an incident under any other law also applies.

- (d) **Consent** — For individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what a person wants sexually and what a person does not. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence—without actions demonstrating permission—cannot be assumed to show consent. Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "No."

- (e) **Dating Violence** — Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. 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: (1) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse; (2) Dating Violence does not include acts covered under the definition of Domestic Violence.
- (f) **Domestic Violence** — Domestic Violence is a felony or misdemeanor crime of violence committed: (1) by a current or former spouse or intimate partner of the victim; (2) by a person with whom the victim shares a child in common; (3) by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (4) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (5) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- (g) **Education Program or Activity** – A University education program or activity means all of the operations of the University in any locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- (h) **Hostile Environment** — Hostile Environment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive and objectively offensive that it alters the conditions of employment or limits, interferes with or denies educational benefits or opportunities, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a Hostile Environment, particularly when the conduct is physical. Conduct creates a Hostile Environment if the conduct is sufficiently serious that it interferes with or limits the Complainant's ability to participate in or benefit from a University program or to perform his or her work. Sexual Harassment is considered a form of conduct that creates a hostile work environment. In determining whether Sexual Misconduct has created a hostile environment, the University

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

considers the conduct in question from both a subjective and objective perspective. It will be necessary, but not adequate, that the conduct was unwelcome to the individual who was mistreated. To conclude that conduct created or contributed to a hostile environment, the University must also find that a reasonable person in the individual's position would have perceived the conduct as undesirable or offensive.

- (i) **Incapacitation** — Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. An individual may be incapacitated if they are unaware at the time of the incident of where they are, how they got there, or why or how they became engaged in a sexual interaction.

When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence or impaired by use of the drug. Alcohol and other drugs impact each individual differently, and determining whether an individual is incapacitated requires an individualized determination.

After establishing that a person is in fact incapacitated, the University asks two questions:

- (1) Did the person initiating sexual activity know that the other party was incapacitated? and if not,
- (2) Should a sober, reasonable person in the same situation have known that the other party was incapacitated?

If the answer to either of these questions is "YES," consent was absent and the conduct is likely a violation of this Policy.

A Respondent will be found to have violated policy only if the Respondent knew or should have known that the person was incapacitated.

- (j) **Other Inappropriate Sexual Conduct** — Conduct on the basis of sex that does not meet the definition of Sexual Harassment under Title IX, as defined in this Policy, but is considered inappropriate and a violation of University policy, includes:

Verbal conduct (including through electronic means) constituting unwanted statements of a sexual nature, intentionally directed to a person or group of people, that are objectively offensive to a reasonable person and also so severe or pervasive that they created a Hostile Environment, as defined in this Policy. The type of verbal conduct that violates this policy may include:

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

- (i) Unwelcome sexual advances (including explicit or implicit proposition(s) of sexual contact or activity);
- (ii) Requests for sexual favors (including overt or subtle pressure);
- (iii) Gratuitous comments about an individual's sexual activities or speculation about an individual's sexual experiences;
- (iv) Gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
- (v) Persistent, unwanted sexual or romantic attention;
- (vi) Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or
- (vii) Deliberate, repeated humiliation or intimidation.

Physical conduct that does not fall within the Title IX definition of Sexual Harassment, but which violates the University's Policy, includes:

- (i) Sexual exploitation, as defined in this Policy;
  - (ii) Unwelcome intentional touching of a sexual nature;
  - (iii) Deliberate physical interference with or restriction of movement; or
  - (iv) Sexual violence as defined in this Policy.
- (k) **Participants** — The term "participants" includes the Complainant, Respondent, and any witnesses.
- (l) **Parties** — The term "parties" refers to the "Complainant" and the "Respondent" under this Policy.
- (m) **Preponderance of the Evidence** — The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of prohibited conduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.
- (n) **Respondent** — The individual who has been reported to be the perpetrator of prohibited conduct under this policy.
- (o) **Responsible Employee** — A University employee who has the duty to report incidents of and information reasonably believed to be Sexual Misconduct to the Title IX Coordinator. The University considers officials of the University (directors, deans, vice presidents, other administrators with supervisory responsibilities, campus safety, faculty, and human resources) to be Responsible Employees. Responsible Employees must

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

report all known information concerning an incident of Sexual Misconduct reported to them or of which they become aware to the Title IX Office, and must include whether a Complainant has expressed a desire for confidentiality in reporting the incident. Though they are not Responsible Employees, all other University employees also are expected to report all known information concerning the incidents of Sexual Misconduct of which they become aware to the Title IX Office.

- (p) **Retaliation** — Retaliation is acts or words taken against an individual because of the individual's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Protected activity includes an individual's good faith: (i) participation in the reporting, investigation or resolution of an alleged violation of this Policy; (ii) opposition to policies, practices, or actions that the individual reasonably believes are in violation of the Policy; or (iii) requests for accommodations on the basis of religion or disability. Retaliation may include intimidation, threats, coercion, or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated. Retaliation may be committed by the Complainant, Respondent, or any other individual or group of individuals.
- (q) **Sexual Assault** — Sexual Assault is an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. A sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent."
- (i) *Rape*: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- (ii) *Fondling*: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- (iii) *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- (iv) *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.
- (r) **Sexual Exploitation** — Sexual Exploitation occurs when a student or employee takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to: (1) invasion of sexual privacy; (2) prostituting another student or employee; (3) non-consensual video or audio-taping of sexual activity; (4) going beyond the boundaries of consent (such as letting friends hide in the closet to observe one having consensual sex); (5) engaging in voyeurism; (6) knowingly transmitting a Sexually Transmitted Infection (STI) or Human Immunodeficiency Virus (HIV) to another person; (7) exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals; and (8) sexually-based stalking and/or bullying may also be forms of sexual exploitation.

- (s) **Sexual Harassment** — Conduct on the basis of sex that satisfies one or more of the following:
  - (i) *Quid pro quo*: An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
  - (ii) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
  - (iii) "Sexual Assault," "Dating Violence," "Domestic Violence," or "Stalking" as defined in the Violence Against Women Act.

Subsections (i) and (iii) in this definition are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because such conduct is sufficiently serious to deprive a person of equal access. Therefore, any instance of quid pro quo sexual harassment and any instance of Sexual Assault, Dating Violence, Domestic Violence, and Stalking are considered Sexual Harassment under this Policy.

- (t) **Sexual Misconduct** — This term is broadly defined to encompass sex discrimination, sexual harassment, sexual assault, domestic violence, dating violence, stalking, and other Inappropriate Sexual Conduct.
- (u) **Sexual Violence** — Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.
- (v) **Stalking** — Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition--
  - (i) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

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.
- (iii) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

7.2 Applicability of the Complaint Resolution Process. The Complaint Resolution Process outlined in this Section 7 applies to:

- (a) Students (including student employees)<sup>1</sup> at the University at the time of the alleged Sexual Harassment. When the alleged misconduct does not include Sexual Harassment, as defined in this Policy, the allegation will be addressed pursuant to the Student Code of Conduct.
- (b) Employees, faculty, and staff, when employed at the University at the time of the alleged Sexual Harassment, as defined in this Policy, when the Complainant was participating or attempting to participate in an Education Program or Activity at the University, and the alleged conduct occurred within the United States.

For Formal Complaints against third parties, such as contracted workers, volunteers, or visitors, the University will apply the analysis in Section 7.2(b) with regard to employees and may apply other institutional policies to those Respondents if the Complaint Resolution Process (outlined in this Policy) does not apply.

7.3 The Formal Complaint.

- (a) To begin the Complaint Resolution Process, the Complainant must sign a Formal Complaint (requesting an investigation) and submit it to the Title IX Coordinator. The Complainant must submit a written statement setting out the known details of the alleged conduct that is the subject of the Formal Complaint, including the following:
  - Complainant's name and contact information;
  - Respondent's name;
  - Detailed description of the alleged conduct or event that is the basis of the alleged violation under this Policy;

---

<sup>1</sup> Respondents who are both students and employees are treated as students under this Policy.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

- Date(s) and location(s) of the alleged occurrence(s);
- Names of any witnesses to the alleged occurrence(s); and
- the resolution sought.

The Complainant may also submit any documents or information that is relevant to the Formal Complaint.

- (b) The Title IX Coordinator may also sign a Formal Complaint against a Respondent (requesting an investigation) and in doing so will initiate the Complaint Resolution Process.

### **7.4 Mandatory And Discretionary Dismissal Of Formal Complaints.**

- (a) Mandatory Dismissals. Under the regulations governing the University's implementation of Title IX, the University is required to distinguish between conduct that is prohibited under Title IX and conduct that violates a University policy. The University must dismiss a Formal Complaint *under Title IX* if: (1) the Formal Complaint describes conduct which, even if proven true, would not satisfy the definition of Sexual Harassment under Title IX; (2) the alleged conduct did not occur in the University's education program or activity; or (3) the alleged conduct did not occur against a person in the United States. If the Formal Complaint is dismissed under Title IX, the University may still investigate a Formal Complaint for allegations of Sexual Harassment under this Policy.
- (b) Discretionary Dismissals. The University may dismiss a Formal Complaint, at its discretion, under this Policy's Complaint Resolution Process for any of the following reasons:
- (i) If the Complainant submits a written request to dismiss a Formal Complaint (e.g., withdraws the Formal Complaint or any allegations therein), as outlined in Section 4 of this Policy;
  - (ii) If the Respondent was a University employee at the time of the incident, but is no longer employed by the University at the time the Formal Complaint is filed;
  - (iii) Circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or any allegations therein; or
  - (iv) The conduct alleged does not meet the definition of any prohibited conduct under this Policy.
- (c) Notice of Dismissal. If the University dismisses a Formal Complaint, the University must provide both parties a written notice of the dismissal and the reason(s) for the dismissal.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

7.5 Concurrent Criminal or Civil Proceedings. The University will not, as a matter of course, delay taking action on a Formal Complaint pending the outcome of a concurrent criminal or civil justice proceeding. The University has an independent duty to respond to Formal Complaints of Sexual Misconduct. At the University's discretion, the University may delay the investigation or Complaint Resolution Process for a brief period due to concurrent criminal or civil proceedings on a case-by-case basis.

7.6 Written Notice of the Formal Complaint, and Notification of University Offices Offering Assistance. After receiving a Formal Complaint, the Title IX Office will provide a written notice to the parties of the Formal Complaint and available University resources and assistance.

The written notice of the Formal Complaint will include at least the following:

- Notification of the Complaint Resolution Process, as outlined in this Policy;
- Notice of the allegations that potentially constitute prohibited conduct under this Policy, including sufficient details about the alleged conduct, including the identity of the parties, if known, and the date(s), time(s), and location(s) of alleged conduct known by the University at the time of the Formal Complaint;
- Notice of the potential policy violations being investigated;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that the determination regarding responsibility will be made at the conclusion of the Complaint Resolution Process;
- Notice that both parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review all evidence, and that the University will provide a trained advisor if either party so requests;
- A statement that the parties may review evidence gathered as part of any investigation; and
- Notice that knowingly making false statements or knowingly submitting false information during the Complaint Resolution Process is prohibited and subject to disciplinary action under the Student Code of Conduct.

7.7 Informal Resolution.

- (a) After the parties have been provided written notice of a Formal Complaint, each may agree, in writing, to use an informal resolution option at any point prior to reaching a determination regarding responsibility, but need not agree to informal resolution. The Informal Resolution process is not

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

available, however, to resolve allegations that a University employee sexually harassed a student.

- (b) At any point prior to agreeing to an Informal Resolution, each party has the right to withdraw from the Informal Resolution process and resume the Complaint Resolution Process with respect to the Formal Complaint.
- (c) Informal Resolution could include, for example, a mediation process.
- (d) Informal Resolutions will be concluded within 45 days of notice to the University that the parties wish to proceed with the Informal Resolution Process. The University's receipt of such notice will "pause" the Complaint Resolution Process, including the clock for concluding that process. If the parties fail to completely resolve the allegations through an Informal Resolution, then the Complaint Resolution Process will resume where the parties left off.

### **7.8 Investigation of the Formal Complaint.**

- (a) The Respondent will be allowed a reasonable time after receiving notice of a Formal Complaint to respond in writing and through an interview with the investigator.
- (b) The University will provide written notice to a party whose participation is invited or expected of the date, time, location, participants, and purpose of all meetings, investigative interviews, or other proceedings in the Complaint Resolution Process.
- (c) *Evidence.* The parties may present any information, evidence, or names of any fact or expert witnesses that may be relevant to the Formal Complaint in the course of the investigation, and may have an advisor of their choice attend any related interview, meeting, or proceeding in the Complaint Resolution Process. Advisors are not permitted to actively participate in meetings or proceedings in the Complaint Resolution Process, unless explicitly outlined in Section 7.12 of this Policy. The parties may submit to the investigator any questions they would like asked of any known potential witnesses or parties.
- (d) *Witness Interviews.* The investigators will interview relevant and available witnesses. Neither the Complainant nor the Respondent will normally attend these interviews; however, if either one is permitted to attend, the other shall have the same right.
- (e) *Investigation Timeframe.* The University is committed to providing prompt, fair, and impartial investigation and resolution of reports of violations of this policy, and therefore will aim to complete the investigation of a Formal Complaint within 90 days of the filing of a Formal Complaint. The parties should be provided updates on the progress of the investigation, as needed. Extenuating circumstances may require the extension of

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

timeframes, especially due to the geographic spread of the University's campuses in various states, countries and time zones. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, any intervening school break or vacation, or other unforeseen circumstances. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

- (f) *Access to Evidence.* Prior to the completion of the investigation report, the investigators will provide access to all evidence obtained (whether relevant or not) as part of the investigation to both parties (and the party's advisor, if any, upon a party's signed information release for their advisor of choice). Both parties will have 10 days to inspect, review, and respond to the evidence. All responses to the evidence must be submitted by the party in writing to the investigator. Advisors are not permitted to submit written responses to the evidence on their own or on behalf of the party they are advising. The investigators will consider all timely responses submitted by the parties.

- 7.9 The Investigative Report. The completed investigative report will: (a) describe each of the allegations that potentially constitute conduct prohibited under this Policy; (b) provide a procedural history of the investigation; and (c) fairly summarize all relevant evidence, participant statements, and responses to questions. The Investigator will provide contemporaneously to each of the parties and each party's advisor, if any, upon a party's signed information release for their Advisor of choice, a draft of the investigative report. The parties will then have 10 days in which to provide a written response to the draft investigative report, which the investigator will consider prior to completing the investigative report. At least 10 days prior to the date of the scheduled hearing, the investigator must provide the final investigative report concurrently to all parties and each party's advisor, if any, upon a party's signed information release for their advisor of choice. The parties thus have the opportunity to review the investigative report and provide a written response prior to or at the hearing. A copy of the completed investigative report also will be provided to the Title IX Coordinator, and to the Hearing Officer(s) assigned for the hearing.
- 7.10 Presumption That Respondent Is Not Responsible. By law, it is presumed that the Respondent is not responsible for the alleged conduct unless the Respondent is determined to be responsible at the conclusion of the Complaint Resolution Process.
- 7.11 Standard of Evidence. All Complaint Resolution Processes will use the preponderance of the evidence standard, as defined in this Policy.
- 7.12 The Live Hearing.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

- (a) Unless a Formal Complaint is dismissed pursuant to Section 7.4, or the parties reach an Informal Resolution agreement pursuant to Section 7.7, the University will hold a live hearing for all Formal Complaints subject to the Complaint Resolution Process as outlined in this Policy.
- (b) Joint Hearing. In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly. However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.
- (c) Written Notice of the Hearing. The University will provide at least 10 days written notice to participants of the hearing (and the participants' advisors, if any, upon a participant's signed information release for their advisor of choice), including the date, time, location, names of all participants of the hearing (including the Hearing Officer(s), and all parties and participants in the investigation report), purpose of the hearing, a statement of the alleged conduct charges, and a summary statement of the evidence gathered.
- (d) Challenges to the Hearing Officer(s). Either party may challenge the fairness, impartiality or objectivity of a Hearing Officer through submission of a written statement to the office coordinating the hearing within 4 days of receiving notice of the identity of the Hearing Officer, and must state the reasons for the challenge. The Hearing Officer will be the sole judge of whether he or she can serve with fairness, impartiality, and objectivity. In the event that the Hearing Officer recuses themselves, an alternative hearing officer will be assigned in accordance with the institution's procedures.
- (e) Hearing Chair. When a panel of three (3) Hearing Officers is used, one Hearing Officer will be designated as the Hearing Chair. The Hearing Chair will rule on all procedural matters and on objections to exhibits or testimony of participants at the hearing. If a single Hearing Officer is used, as may be the case for certain Complaint Resolution Process hearings based on Hearing Officer availability or straightforward nature of the issues, then no Hearing Chair needs to be appointed, and the single Hearing Officer will rule on all procedural matters and on objections regarding exhibits and testimony of participants at the hearing. All Hearing Officers, including the Hearing Chair, may question participants who testify at the hearing, and are entitled to have the advice and assistance of legal counsel from the Office of General Counsel of Park University.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

- (f) Access to Evidence. Each party will have access to all of the evidence from the investigation, including a copy of the completed investigative report, as outlined in Section 7.9 of this Policy.
- (g) Separate Rooms and Virtual Participation. At the request of either party, the University will allow the parties to participate in the hearing through technology enabling them to participate remotely or virtually from separate locations, and to simultaneously see and hear the participants answering questions.
- (h) Advisor of Choice. Each party may have an Advisor of their choice at the hearing. If a party does not have an Advisor, the University will provide one. Advisors are not permitted to actively participate in the hearing, except for asking questions of the other party and any other witnesses. In addition, witnesses may have an Advisor of their choice at the hearing.
- (i) Each party may make opening and closing statements.
- (j) Privileged Information Excluded. No person will be required to disclose information protected under a legally recognized privilege. The Hearing Officer(s) must not allow into evidence or rely upon any questions or evidence that may require or seek disclosure of such information, unless the person holding the privilege has waived the privilege. This includes information protected by the attorney-client privilege.
- (k) Cross-Examination Of Witnesses. The Hearing Officer(s) may ask questions during the hearing of any party or witness and may be the first person to ask questions of any party or witness. Each party's Advisor will have an opportunity to ask relevant questions and follow-up questions of the other party and of any witnesses who participate in the hearing, including questions that challenge credibility. Each Advisor has the right to ask questions directly, orally, and in real time at the hearing. The parties will not be permitted to personally ask questions of the other party or any witnesses that participate in the hearing. The Advisors may ask questions under the following procedure:
  - (i) The Advisor will ask a question of the applicable participant.
  - (ii) Before the participant answers a question, the Hearing Chair or, when a single Hearing Officer is used, the Hearing Officer, will rule as to whether the Advisor's question is relevant to the alleged conduct charges.
  - (iii) If the Hearing Chair or Hearing Officer rules the Advisor's question is not relevant, then the Hearing Officer must explain any decision to exclude a question as not relevant. If the Hearing Chair or Hearing Officer allows the question as relevant, the participant will answer it.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

- (l) Limitations On Questions Regarding Prior Sexual History. A Complainant's sexual predisposition or prior sexual behavior are not relevant except where questions and evidence about a Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct charged by the Complainant or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove the Complainant's consent of the alleged conduct.
  - (m) Witness Statements Excluded If Not Subject To Cross-Examination. When reaching a responsibility determination, the Hearing Officer(s) may not rely on the statement of any party or witness who refuses or otherwise fails to submit to cross-examination during the hearing. The Hearing Officer(s) may not, however, draw any inference regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions.
  - (n) Recording. The hearing will be recorded in audio or audiovisual format and may be transcribed at the discretion of the University. The recording or transcript, if applicable, will be available for the parties to inspect and review, upon request.
- 7.13 The Hearing Officer Determination. The Hearing Officer(s) will send a copy of the written determination concurrently to the parties, the Dean (for student Respondents) or appropriate administrator (for employee Respondents), and the Title IX Coordinator. The written determination must include the following:
- (a) The conduct alleged to constitute prohibited conduct under this Policy;
  - (b) A description of the procedural history of the Complaint Resolution Process;
  - (c) The findings of fact supporting the Hearing Officer(s)'s determination;
  - (d) The conclusion(s) and a rationale as to whether the Respondent is responsible for each allegation;
  - (e) The disciplinary sanctions, if applicable;
  - (f) The remedies, if applicable, designed to restore the Complainant's access to the education program or activity; and
  - (g) The University's appeal procedures and grounds for appeal.
- 7.14 Sanctions and Remedies. The following sanctions and remedies may be considered by the Hearing Officer(s) in accordance with this Policy:
- (a) Possible Sanctions and Remedies for Student Respondents:
    - Educational training;

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

- Verbal warnings;
- Activity or location restrictions;
- Restitution or fines;
- Loss of privileges;
- Housing suspension;
- Temporary or permanent suspension from the University for a specific time period;
- Expulsion;
- Restriction on eligibility to represent the University at any official function or in any intercollegiate competition.
- No shared classes or extra-curricular activities;
- Withholding of grades, official transcript, and/or degree;
- Bar against readmission, bar against enrollment, drop from one or more classes, and/or withdrawal from the University;
- Suspension of rights and privileges, including but not limited to participation in athletic or extracurricular activities or ban from facilities; and/or
- Other sanction(s) or remedies as deemed appropriate under the circumstances.

(b) Possible Sanctions and Remedies for Employee Respondents:

- Verbal or written warnings;
- Final written warning;
- Employment probation;
- Job demotion or reassignment;
- Suspension with or without pay for a specific period of time;
- Dismissal or termination;
- Ineligible for rehire; and/or
- Other sanction(s) or remedies as deemed appropriate under the circumstances

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

### 7.15 Appeals and Additional Processes Provided to Students and Employees.

- (a) Appeals. Either party may appeal in writing to the Hearing Officer(s)'s determination regarding a Respondent's responsibility under the Complaint Resolution Process or from the University's dismissal of a Formal Complaint (or any allegations in the Formal Complaint) within 10 days of notification of such a determination, on the following bases:
- A procedural irregularity that affected the outcome of the matter;
  - There is new evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; or
  - The Title IX Coordinator, investigator(s), or Hearing Officer(s) had a conflict of interest or bias for or against the parties (generally, or specifically in this matter) that affected the outcome of the matter.

The Appeals Hearing Officer must not be the same person as the Title IX Coordinator, investigator(s), or Hearing Officer(s) in the Complaint Resolution Process. Both parties will be notified in writing when an appeal is filed and the appeal procedures will apply equally for both parties.

Any non-appealing party (or the University) will have 7 days from the notification of an appeal to submit a written statement in support of the outcome. The decision-maker on the appeal will release a written decision within 21 days from the date of the appeal.

The Appeals Hearing Officer will release a written decision within 21 days from the date of the appeal to:

- Affirm the Hearing Officer(s)'s determination regarding the Respondent's responsibility and affirm the disciplinary sanctions and remedies, if applicable;
- Affirm the Hearing Officer(s)'s determination regarding the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable;
- Remand the process back to the hearing stage for the Hearing Officer(s) to remedy any procedural irregularity or consider any new evidence;
- Reverse the Hearing Officer(s)'s determination of the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable; or
- Affirm or amend the sanctions and/or remedies outlined in the administrative disposition issued under Section 7.13 of this Policy.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

- 7.16 Complaint Resolution Process Documentation. The University (through the appropriate office) will retain all of the documentation included in the Complaint Resolution Process for seven years, in accordance with state and federal records laws and University policy. All documentation of records is private and confidential to the extent possible under law. Student records of the Complaint Resolution Process are disciplinary records under FERPA. Employee records of the Complaint Resolution Process are subject to the Freedom of Information Act ("FOIA"), and included in the employee's official employment record.
- 7.17 Complaint Resolution Process Timeframe. The entire Complaint Resolution Process (outlined in Section 7 of this Policy, including any appeal) will be completed in no more than 150 days from the filing of the Formal Complaint. However, the circumstances may require a temporary delay in this timeframe and the University may extend this timeframe for good cause. In such an instance, the University will provide written notice to the parties of the delay or extension and the reason(s) for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The time period in this section does not include the period the parties attempted but failed to reach an agreement in the Informal Resolution Process, if applicable, and in such a case, the Complaint Resolution Process timeframe will be extended by the period the parties attempted to reach an Informal Resolution (outlined in Section 7.7 of this Policy).
- 7.18 Alternative Complaint Resolution Process for Students — Applicable Exceptions for Non-Sexual Harassment Formal Complaints.

For Formal Complaints where the Respondent is a student at the time of the alleged conduct (including student employees), and the alleged conduct does not include Sexual Harassment under Title IX, the Complaint Resolution Process in Section 7 of this Policy applies, with the following exceptions:

- (a) *Investigative Report & Determination Regarding Responsibility.* Section 7.9 applies except that the completed investigation report will include a preliminary determination regarding the responsibility of the Respondent for each allegation, the findings of fact supporting the investigator's determination, and the rationale for the determination for each allegation. The completed investigation report and determination regarding responsibility will be referred to the Student Conduct Process.

The Student Conduct Officer will conduct an independent review of the investigation report, and will:

- Accept the preliminary determination regarding responsibility of the Respondent, and either dismiss the case or proceed to adjudication (if applicable);

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

- Amend the preliminary determination regarding responsibility of the Respondent, and proceed to adjudication (if applicable); or
  - Remand the process back to the investigation stage to address an investigation concern.
- (b) *Adjudication.* Where responsibility finding(s) proceed to the adjudication stage, the Respondent and Complainant may elect one of the following options:
- (i) Agree to the determination of responsibility for each of the applicable allegations, the sanctions, and remedies outlined in an administrative disposition, and waive the option of a hearing;
  - (ii) Agree to the determination of responsibility for each of the applicable allegations, appeal (in writing) the sanctions and/or remedies outlined in the administrative disposition, and waive the option of a hearing; or
  - (iii) Select a live hearing where the determination regarding responsibility of the Respondent will be made by a Hearing Officer.

If either party chooses option 3, then a live hearing must be initiated for the adjudication of the conduct allegations, as outlined in Section 7.12.

If either party chooses option 2, then any party choosing option 2 may appeal the sanctions and/or remedies outlined in the administrative disposition, using the Appeals process in Section 7.15 of this Policy. The finding of responsibility may not be appealed by either party unless the parties elect to have a live hearing under option 3.

If both parties select option 1, then the administrative disposition will be final and there will not be any subsequent adjudication proceedings regarding the allegations.

- (c) *Live Hearing.* If a live hearing is selected for adjudication, the hearing procedures in Section 7.12 of this Policy will apply.

### 7.19 Emergency Removal and Employee Administrative Leave.

- (a) *Emergency Removal.* A Respondent may be removed from the University's education program or activity on an emergency basis if, after an individualized safety and risk analysis, it is determined that such a removal is justified because the Respondent poses an immediate threat to the

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

physical health or safety of an individual arising from the allegations of Sexual Misconduct. Under these circumstances, the Respondent will be notified in writing of the emergency removal from the University's education program or activity, and the Respondent will have an opportunity to immediately challenge the decision following the emergency removal.

- (b) *Employee Administrative Leave.* An employee Respondent may be placed on administrative leave, in accordance with the University's policy and procedures on employee administrative leave, during the pendency of a Complaint Resolution Process, as outlined in this Policy.

### 7.20 Dissemination of Policy and Educational Programs.

- (a) *Notices And Publication.* This Policy will be made available to all University administrators, faculty, staff, and students online at <https://www.park.edu/title-ix/> and in University student catalog(s) and any employee handbook of operating procedures. Periodic notices will be sent to University administrators, faculty, staff and students about the University's Policy Regarding Sexual Harassment and Sexual Misconduct, including, but not limited to, at the beginning of each fall and spring semester. The notice will include information about Sexual Misconduct, Retaliation, and other conduct prohibited under this Policy, including the Formal Complaint procedure, the University Complaint Resolution Process, and available resources, such as support services, health, and mental health services. The notice will specify the right to file a Formal Complaint under this Policy, right to file a police report to law enforcement, and the Title IX Coordinator's contact information, and will refer individuals to designated offices or officials for additional information.

*Ongoing Sexual Misconduct Training.* The University's commitment to raising awareness of the dangers of Sexual Misconduct includes providing ongoing education through annual training and lectures by faculty, staff, mental health professionals, and/or trained University personnel. Preventive education and training programs will be provided to University administrators, faculty, staff, and students and will include information about primary prevention, risk reduction, and bystander intervention:

- (b) *Training of Title IX Coordinators, Investigators, Hearing Officers and Appellate Authorities.* All Title IX Coordinators, Deputy Coordinators, investigators, and those with authority over University Complaint Resolution Processes, and appeals shall receive training each academic year about applicable prohibited conduct, Complaint Resolution Processes, due process, and University policies related to Sexual Misconduct. All training materials used to train Title IX-related personnel will be made available on the University's website: <https://www.park.edu/title-ix/>

### 7.21 Additional Conduct Violations Under this Policy.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

- (a) *Retaliation.* The University will not tolerate retaliation of any form against any applicant, student, employee, or other individual for reporting a violation of this policy or for assisting in the investigation of a complaint. Any person who retaliates against (a) anyone filing a report of Sexual Misconduct or a Formal Complaint, (b) the parties or any other participants (including any witnesses or any University employee) in a Complaint Resolution Process relating to a Formal Complaint, (c) any person who refuses to participate in a Complaint Resolution Process, or (d) any person who under this Policy opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University. If any participant in a Complaint Resolution Process believes they have been subject to Retaliation (as defined in this Policy), they should immediately report the alleged retaliatory conduct to the Title IX Coordinator.
  
- (b) *False Information and False Complaints.* Any person, who in bad faith, knowingly files a false complaint under this Policy or provides materially false information is subject to disciplinary action up to and including dismissal or separation from the University. A determination that a Respondent is not responsible for allegations of Sexual Misconduct does not imply a report, Formal Complaint, or information provided was false or filed in bad faith. Similarly, a determination that a Respondent is responsible for a policy violation does not imply that a Respondent's statements disclaiming responsibility were false.
  
- (c) *Interference with the Complaint Resolution Process.* Any person who interferes with the Complaint Resolution Process (outlined in Section 7 of this Policy) is subject to disciplinary action up to and including dismissal or separation from the University. Interference with a Complaint Resolution Process may include, but is not limited to:
  - (i) Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;
  - (ii) Removing, destroying, or altering documentation relevant to the Complaint Resolution Process; or
  - (iii) Knowingly providing false or misleading information to the Title IX Coordinator, investigator or Hearing Officer, or encouraging others to do so.
  
- (d) *Failure to Report for Responsible Employees.* Under state law, if a Responsible Employee knowingly fails to report all information concerning an incident the employee reasonably believes constitutes stalking, dating violence, sexual assault, or sexual harassment committed by or against a student or employee at the time of the incident, the employee is subject to disciplinary action, including termination.

## **PARK UNIVERSITY POLICY REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT**

---

For purposes of Failure to Report, the definition of sexual harassment, as defined under state law, is broader than the definition of sexual harassment under this Policy and is defined as: Unwelcome, sex-based verbal or physical conduct that:

- (i) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
  - (ii) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary institution.
- (e) *No Effect on Pending Personnel or Academic Actions Unrelated to the Complaint.* The filing of a Formal Complaint under this Policy will not stop or delay any other proceeding unrelated to the Formal Complaint, including: (1) any evaluation or disciplinary action relating to a Complainant who is not performing up to acceptable standards or who has violated University rules or policies; (2) any evaluation or grading of students participating in a class, or the ability of a student to add/drop a class, change academic programs, or receive financial reimbursement for a class; or (3) any job-related functions of a University employee. Nothing in this section shall limit the University's ability to take interim action or execute an emergency removal.